

SENATE BILL No. 240

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

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

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

New Sec. 2. (a) Whenever the commissioner is of the opinion that an emergency, as defined by K.S.A. 9-1122, and amendments thereto, exists or is impending in this state which affects, or may affect, a particular bank, trust company, multiple banks or multiple trust companies, the commissioner may, by proclamation, temporarily close the particular institutions located in the affected area. The banks or trust companies so closed shall remain closed until the commissioner proclaims that the emergency has ended.

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

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

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

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

New Sec. 3. (a) The commissioner may enter into any informal agreement with any bank or trust company for a plan of action to address possible safety or soundness concerns, violations of law or any weakness

displayed by the bank or trust company if the commissioner determines that the bank or trust company displays:

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

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

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

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

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

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

(c) Upon the completion of the liquidation, the bank shall immediately surrender the bank's certificate of authority to transact a banking business, remove all advertising signs, and notify and make the necessary filings with the secretary of state. The commissioner shall make a final examination to determine that all depositors and creditors have been paid before any distribution is made to stockholders.

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

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

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

New Sec. 9. (a) No bank or trust company organized under the laws of this state shall change the bank's or trust company's place of business, from one city or town to another or from one location to another within the same city or town, without prior approval. Any such bank or trust

company desiring to change the bank's or trust company's place of business shall file written application with the office of the state bank commissioner in such form and containing such information the commissioner shall require. Notice of the proposed relocation shall be published in a newspaper of general circulation in the county where the main bank or trust company is currently located and in the county to which the bank or trust company proposes to relocate. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank or trust company, the address of the proposed new location and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 calendar days after the date of the second publication. The applicant shall provide proof of publication to the commissioner.

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

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

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

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

(B) within a 15-mile radius of the proposed location although any bank or trust company may request exemption from the commissioner from this paragraph.

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

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

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

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

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

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

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

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

- (1) Bank or trust company charter \$2,500
- (2) New branch bank 750

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

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

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

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

(e) Within two weeks of the beginning of each legislative session, the commissioner shall submit to the senate committee on ways and means, the appropriate senate budget subcommittee, the house of representatives committee on appropriations and the appropriate house of representatives budget committee, a written summary of any rules and regulations adopted to establish fees pursuant to subsection (b) during the preceding year.

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

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

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

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

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

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

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

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

~~(a)~~(b) (1) “Bank holding company” means any company:

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

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

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

~~(D) which, by virtue of acquisition of ownership or control of, or the power to vote the voting shares of, a bank or another company, becomes a bank holding company under this act which the commissioner determines, after notice and opportunity for a hearing, that the company di-~~

rectly or indirectly exercises a controlling influence over the management or policies of the bank or company.

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

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

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

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

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

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

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

~~(d)~~ “Subsidiary” with respect to a specified bank holding company means:

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

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

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

~~(e)~~ “Commissioner” means the Kansas state bank commissioner

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

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

~~(g)~~(f) “Kansas bank holding company” means a bank holding company, as defined by subsection ~~(a)~~ (b), with total subsidiary bank deposits in Kansas which exceed the bank holding company’s subsidiary bank deposits in any other state.

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

~~(i)~~ “Foreign bank” means any company organized under the laws of

a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company

(h) “Subsidiary” means, with respect to a specified bank holding company:

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

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

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

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

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

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

Sec. 16. K.S.A. 2014 Supp. 9-532 is hereby amended to read as follows: 9-532. (a) With prior approval of the commissioner: (1) Any company by virtue of acquisition of ownership or control of, or the power to vote the voting shares of, a bank or another company, may become a bank holding company; (2) any bank holding company may acquire, directly or indirectly, ownership or control of, or power to vote, any of the voting shares of, an interest in, or all or substantially all of the assets of a Kansas state chartered bank or of a bank holding company that has an ownership interest in a Kansas state chartered bank.

(b) Request for approval shall be made by filing an application in such form as required by the commissioner, containing the information prescribed by K.S.A. 9-533, and amendments thereto, and by rules and regulations adopted by the commissioner. ~~At the time of filing the application, the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner.~~

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

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

(a) A copy of any application by an applicant seeking approval by a federal agency of the acquisition of the voting shares or assets of a Kansas

state chartered bank or of a bank holding company that has an ownership interest in a Kansas state chartered bank; and of any supplemental material or amendments filed with the application.

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

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

~~(d)~~~~(c)~~ Information as to how the applicant proposes to adequately meet the convenience and needs of the community served by the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject of the application filed pursuant to K.S.A. 9-532, and amendments thereto, and the communities served by other Kansas banks which are subsidiaries of the applicant, in accordance with ~~the federal community reinvestment act of 1977, 12 U.S.C. § 2901 et seq.~~

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

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

Sec. 18. K.S.A. 2014 Supp. 9-534 is hereby amended to read as follows: 9-534. In determining whether to approve an application filed pursuant to K.S.A. 9-532, and amendments thereto, the commissioner shall consider the following factors:

(a) Whether the *subsidiary* banks ~~already subsidiaries~~ of the applicant are operated in a safe, sound and prudent manner.

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

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

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

(e) Whether the financial condition of the applicant or any of its subsidiary banks would jeopardize the financial stability of the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject of the application.

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

Sec. 19. K.S.A. 2014 Supp. 9-535 is hereby amended to read as follows: 9-535. (a) The commissioner shall approve the application if the commissioner determines that the application favorably meets each and every factor prescribed in K.S.A. 9-534, and amendments thereto, the proposed acquisition is in the interest of the depositors and creditors of the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank which is the subject

of the proposed acquisition and in the public interest generally. Otherwise, the application shall be denied.

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

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

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

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

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

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

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

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

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

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

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

(2) *The commissioner may make the determination that a person is an executive officer if the commissioner determines that the criteria are*

met despite the existence of a resolution allowed pursuant to this subsection.

~~(f) “Insured bank” means a state bank whose deposits are insured through the federal deposit insurance corporation or other governmental agency or by an insurer approved by the state commissioner of insurance for such purpose. “Demand deposit” means a deposit that: (1) (A) Is payable on demand;~~

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

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

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

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

~~(3) “Demand deposit” does not include “time deposits” or “savings deposits” as defined in this section.~~

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

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

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

~~(j) “Time certificate of deposit” means a deposit evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of such deposit is payable, upon presentation and surrender of the instrument, to bearer or to any specified person or to such person’s order:~~

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

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

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

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

~~(l)(h) “Savings deposit” means a deposit: (1) Which consists of funds deposited to the credit of or in which the entire beneficial interest is held by one or more individuals, or of a corporation, association or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and not operated for profit; or that consists of funds deposited to the credit of or in which the entire beneficial interest is held by the United States, any state of the United States or any county, municipality or political subdivision thereof; or that consists of funds deposited to the credit of, or in which any beneficial interest is held by a corporation, partnership, association or other organization not qualifying above; and (2) with respect to which the depositor is not required by the deposit contract but may at any time be required~~

by the bank to give notice in writing of an intended withdrawal not less than seven days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit or account with respect to which the depositor is not required by the deposit contract, but may at any time, be required by the depository institution to give written notice of an intended withdrawal not less than seven days before such withdrawal is made and that is not payable on a specified date or at the expiration of a specified time after the date of deposit.

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

~~(n)~~(j) “Municipal corporation” means any city incorporated under the laws of Kansas.

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

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

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

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

~~(s)~~ “Negotiable order of withdrawal deposit” means a deposit on which interest is paid and which is subject to withdrawal by the owner by negotiable or transferable instruments for the purpose of making transfers to third parties, and which consists solely of funds in which the entire beneficial interest is held by one or more individuals, an organization which is operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof, the District of Columbia, the commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States or any political subdivision thereof.

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

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

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

(n) “Community and economic development entity” means an entity

that makes investments or conducts activities that primarily benefit low-income and moderate-income individuals, low-income and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or would receive consideration as “qualified investments” under the community reinvestment act pub.L. 95-128, title VIII, 91 stat. 1147, 12 U.S.C. § 2901 et seq., and any state tax credit equity fund established pursuant to K.S.A. 74-8904, and amendments thereto.

~~(w)~~(o) “Depository institution” means any state bank, national banking association, state savings and loan or federal savings association, without regard to the state where the institution is chartered or the state in which the institution’s main office is located.

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

Sec. 23. K.S.A. 9-801 is hereby amended to read as follows: 9-801. ~~Any five or more persons may organize a bank or trust company and make and file articles of incorporation as provided by the laws of the state of Kansas. Except as otherwise provided in subsection (b) of K.S.A. 9-1801, and amendments thereto, no banking corporation or trust company shall be organized or incorporated to engage in business as such until the articles of incorporation have been submitted to and have been approved by the board.~~ (a) *No bank or trust company shall be organized or incorporated under the laws of this state nor transact either a banking business or a trust business in this state, until the application for such bank’s or trust company’s incorporation and application for certificate of authority has been submitted to and approved by the state banking board. The form for making any such application shall be prescribed by the state banking board and any application made to the state banking board shall contain such information as the state banking board shall require.*

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

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

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

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

(3) ~~the name selected for the a bank or trust company shall not be the name of~~ *is different from that of any other bank or trust company:*

(A) *Doing business in the same city or town; and*

(B) ~~within a 15-mile radius of the proposed location, and the name shall be accepted or rejected by the board~~ *selected for the trust company is different from any other trust company doing business in this state. Although, any bank or trust company may request exemption from the commissioner from the provisions of this subsection; and*

(4) ~~the articles of incorporation in addition to the information as now is required by law shall contain the names and addresses of its stockholders; and the amount of common stock subscribed by each and~~ *The articles of incorporation may contain such other provisions as are consistent with law the general corporation code. The articles of incorporation shall be subscribed by at least five of the stockholders of the proposed bank or trust company or the parent company of such proposed bank or trust company who are residents of the state of Kansas, and shall be acknowledged by them. The full amount of the common stock including the surplus and undivided profits as required by this act shall be subscribed before the articles of incorporation are filed.*

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

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

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

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

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

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

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

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

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

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

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

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

(3) *there is an application of an existing bank or trust company pending before the state banking board to change such bank's or trust company's place of business to serve the same territory which the state banking board determines should be approved; and*

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

(i) *Any final action of the state banking board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act.*

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

Sec. 24. K.S.A. 9-802 is hereby amended to read as follows: 9-802.

(a) *The existence of any bank or trust company as a corporation shall date from the filing of ~~its~~ the bank's or trust company's articles of incorporation with the Kansas secretary of state's office from which time ~~it~~ such bank or trust company shall have and may exercise the incidental powers conferred by law upon corporations, except that no bank or trust company shall transact any business except the election of officers, the taking and approving of their official bonds, the receipts of payment upon stock subscriptions and other business incidental to its organization, until ~~it~~ such bank or trust company has secured the approval of the state banking board and the authorization of the ~~commissioners~~ commissioner to commence business.*

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

Sec. 25. K.S.A. 9-803 is hereby amended to read as follows: 9-803. (a) Any bank whose ~~charter or~~ articles of incorporation has lapsed, or hereafter shall lapse, may renew and extend ~~its~~ *the bank's* corporate existence in the manner provided by law and upon payment of the requisite fees.

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

Sec. 26. K.S.A. 9-804 is hereby amended to read as follows: 9-804. (a) *Upon approval of an application to organize a bank or trust company with the state banking board, such board shall cause to be made by and through the commissioner, a careful examination and investigation concerning:*

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

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

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

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

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

Sec. 27. K.S.A. 9-806 is hereby amended to read as follows: 9-806. Any newly organized bank or trust company which ~~shall did~~ not begin business within ~~one hundred and twenty~~ 120 days after a certificate of authority has been issued to ~~it~~ *such bank or trust company* by the commissioner shall not engage in the banking business or the business of a trust company without again obtaining a certificate of authority from the commissioner.

Sec. 28. K.S.A. 9-808 is hereby amended to read as follows: 9-808. (a) ~~After first applying for and receiving approval from the commissioner~~ *Upon the affirmative vote of not less than $\frac{2}{3}$ of its outstanding voting stock, any national bank, federal savings association or federal savings bank organized under the laws of the United States and located in this state may become a state bank upon the affirmative vote of not less than $\frac{2}{3}$ of its outstanding voting stock.* Any national bank, federal savings association or federal savings bank desiring to become a state bank shall apply to the commissioner for permission to convert to a state bank; and:

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

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

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

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

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

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

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

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

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

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

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

~~(b)-(e)~~ In any conversion authorized by this section the capital requirements of this act shall apply, and the new name for such resulting bank shall be approved by the commissioner. In any conversion authorized by this section the resulting state bank shall have authority to issue its shares of stock for shares of stock in the national bank, federal savings association or federal savings bank or property of the national bank, federal savings association or federal savings bank for and upon such valuation as shall be agreed upon, and approved by the commissioner. In any conversion authorized by this section, the resulting state bank by operation of law shall continue all trust functions being exercised by the national bank, federal savings association or federal savings bank and shall be substituted for the national bank, federal savings association or federal savings bank and shall have the right to exercise trust or fiduciary powers created by any instrument designating the national bank, federal savings association or federal savings bank even though such instruments are not yet effective.

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

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

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

Sec. 29. K.S.A. 9-809 is hereby amended to read as follows: 9-809. (a) ~~Any state bank may at any time, Upon the affirmative vote of not less than $\frac{2}{3}$ of its outstanding voting stock, become any state bank may convert to a national bank, but in all the proceedings incident thereto such bank shall be governed by the same rulings, laws and regulations as may be in force and effect under federal law and authority governing national banks becoming state banks.~~

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

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

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

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

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

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

(2) ~~within a 15-mile radius of the proposed location.~~

(c) ~~The commissioner shall not approve the name selected for the trust company if it is the same or substantially similar name of any other trust company doing business in the state of Kansas.~~

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

(e) ~~Upon approval of such name change, the bank must notify and make the necessary filings as may be required by the Kansas secretary of state's office.~~

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

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

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

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

Sec. 32. K.S.A. 9-901a is hereby amended to read as follows: 9-901a. (a) ~~For purposes of this section, the: (1) "Capital" of a bank or trust company shall be means the total of the aggregate par value of its outstanding shares of capital stock, its surplus and its undivided profits;~~

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

(3) “total assets” means the total of all tangible bank assets as reported on the daily balance sheet of the bank.

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

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

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

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

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

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

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

~~The state banking board may require that the bank or trust company have capital in excess of the amounts specified in this subsection if the board determines that the amount and character of the anticipated business of the bank or trust company and the safety of the customers so require~~

~~(d) All banks shall maintain a capital ratio of at least 5% of equity capital to total assets at all times. The minimum capital of a bank or trust company organized pursuant to subsection (b) of K.S.A. 9-1801, and amendments thereto, shall be determined by the commissioner, provided that the successor bank has obtained deposit insurance from the federal deposit insurance corporation or its successor~~

(e) Any bank that relocates its main office from one city to another pursuant to section 9, and amendments thereto, shall have equity capital equal to the greater of \$3,000,000 or 8% of its estimated deposits five years after the relocation.

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

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

~~(e) Except as may be provided elsewhere in this act, no bank or trust company shall reduce voluntarily its capital stock or surplus below the amounts required by this section~~

(f) Any national bank, federal savings association or federal savings bank which converts its charter to a state bank pursuant to K.S.A. 9-808,

and amendments thereto, shall have a minimum capital ratio of 5% of equity capital to total assets at the time of its conversion. The capital division requirements of subsection (b) shall not apply.

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

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

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

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

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

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

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

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

(b) No transfer of stock shall be valid against the issuing bank or trust company so long as the registered owner thereof shall be liable as principal debtor, surety or otherwise to the bank or trust company on a matured, charged off or forgiven obligation, nor shall any. No dividend, interest or profit shall be paid on such stock so long as the registered owner thereof is indebted to the bank or trust company on a matured, charged off or forgiven obligation, but. All such dividends or profits shall be retained by the bank or trust company and applied to the discharge of any such obligations.

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

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

- (1) Shares of stock that results in the direct or indirect ownership by a stockholder or an affiliated group of stockholders of 10% or more of the outstanding stock of the bank or trust company; or
- (2) additional shares of stock to stockholders or an affiliated group

of stockholders who own 10% or more of the outstanding stock of a bank or trust company.

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

Sec. 35. K.S.A. 9-904 is hereby amended to read as follows: 9-904. ~~(a) The capital stock of any bank or trust company may be reduced to the minimum provided by law for a new bank or trust company by resolution adopted by the stockholders representing $\frac{2}{3}$ of the voting stock of such bank or trust company, except that no such reduction shall become effective until the commissioner approves the same.~~

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

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

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

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

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

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

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

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

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

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

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

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

(b) For purposes of this section, "impairment" means that charges or losses to the bank or trust company's capital accounts have been sufficient to eliminate all of the bank or trust company's allowance for loan and lease loss, undivided profits, surplus fund and any other capital reserves

and has brought the book amount of the capital stock value below its par value.

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

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

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

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

(b) *The sale of stock of a delinquent stockholder may be either public or private. The bank or trust company may sell the stock to any person paying the highest price, however, the price shall not be less than the amount due upon the stock, including any incidental expenses. If the stock is sold at private sale and the price offered by any non-stockholder does not exceed the highest bid of any stockholder, then such stock shall be sold to the stockholder. If the stock is sold at a public sale, then notice of the public sale shall be published on the same day for two consecutive weeks, in a newspaper of general circulation in the city or county where the bank or trust company is located.*

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

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

Sec. 39. K.S.A. 9-908 is hereby amended to read as follows: 9-908.

~~Any bank or trust company may issue preferred stock of one or more classes in such amounts as shall be approved by the state bank commissioner. The holders of $\frac{2}{3}$ in amount of the common stock of such bank or trust company must approve such issuance at a meeting held for that purpose and for which notice by registered mail must be given to each stockholder by mailing such notice at least five days in advance of the date of the meeting. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in. With the approval of the state banking board the common stock may be reduced below the requirements contained in K.S.A. 9-901a, and amendments thereto (a) Upon the affirmative vote of $\frac{2}{3}$ of the voting shares of the common stock~~

of a bank or trust company, and with the prior approval of the commissioner, a bank or trust company may issue preferred stock of one or more classes. The stockholders shall have a meeting to vote on the issuance of preferred stock. Notice of this meeting shall be given to all stockholders at least five days in advance of the date of the meeting by registered mail.

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

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

No dividends shall be declared or paid on common stock until all cumulative dividends, if any, on the preferred stock shall have been paid; ~~and~~. If the bank or trust company is dissolved or placed in liquidation no payments shall be made to the holders of common stock until the holders of the preferred stock *are first shall have been paid in full for any sums due upon such the preferred stock.*

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

Sec. 42. K.S.A. 9-911 is hereby amended to read as follows: 9-911.

(a) The directors of any bank or trust company may declare cash dividends only from the undivided profits, but before the declaration of any dividend each bank or trust company. Before paying this dividend, the directors shall ensure that the surplus fund equals or exceeds the capital stock account. If the surplus fund is less than the capital stock account, the directors shall transfer 25% of its the net profits of the bank or trust company, since the last preceding dividend from undivided profits to its the surplus fund, until except no additional transfers shall be required once the surplus fund shall equal equals the total capital stock account.

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

Sec. 43. K.S.A. 9-912 is hereby amended to read as follows: 9-912.

(a) Any losses sustained by a bank or trust company in excess of its undivided profits may be charged to its surplus fund.

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

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

Sec. 44. K.S.A. 2014 Supp. 9-1101 is hereby amended to read as follows: 9-1101. *(a) Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, all such*

~~powers, including incidental the following powers, as shall be necessary to carry on the business of banking, and:~~

(1) To receive deposits and to pay interest thereon at rates which need not be uniform on deposits. The state bank commissioner, with approval of the state banking board, may by rules and regulations of general application fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;

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

(3) to buy and sell bonds, securities, or other evidences of indebtedness of the United States of America or those fully guaranteed, directly or indirectly, by it, and general obligation bonds of the state of Kansas or any municipality or quasi-municipality thereof, and of other states, and

of municipalities or quasi-municipalities in other states of the United States of America. No bank shall invest an amount in excess of 15% of its capital stock paid in and unimpaired and the unimpaired surplus fund of such bank in bonds, securities or other evidences of indebtedness of any municipality or quasi-municipality of any other state or states of the United States of America: (a) If and when the direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; (b) or if any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;

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

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

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

(ii) general obligations of any state of the United States of America or any municipality or quasi-municipality thereof.

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

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

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

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

(6) to buy and sell investment securities which are evidences of indebtedness. The buying and selling of investment securities shall be limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation, or state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both, commonly known as investment securities, under such further definition of the term "investment securities" as prescribed by the board, but the total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock paid in and unimpaired and the unimpaired surplus fund of such bank except that this limit shall not apply to obligations of the United States government or any agency thereof. If the obligor is a state agency including any agency issuing revenue bonds pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board, the total amount of such investment securities shall at no time exceed 25% of the capital stock paid in and

~~unimpaired and the unimpaired surplus fund of such bank surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank;~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(15)(14) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation having as its purpose the acquisition, holding and disposition of agricultural loans originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits. Such investment shall be carried on the books of the bank as directed by the commissioner;~~

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

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

~~(18)(15) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as~~

the ~~state bank~~ commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

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

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

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

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

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

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

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

~~(b)~~(B) the cash surrender value of life insurance policies, in the aggregate from all companies, cannot at any time exceed 25% of the bank's capital stock, surplus, undivided profits, allowance for loan and lease

losses, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the state bank commissioner; and

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

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

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

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

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

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

~~(30) to purchase or hold an annuity for the sole purpose of funding an employee deferred compensation and benefit plan subject to the limitations prescribed by rules and regulations which shall be adopted by the state bank commissioner as provided by K.S.A. 9-1713, and amendments thereto.~~

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

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

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

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

(iv) *operating a travel agency; and*

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

(B) *Such activities do not include:*

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

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

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

(C) As used in subsection (a)(25), “control” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) ~~Own suitable building, furniture and fixtures, stock in a single trust company organized under the laws of the state of Kansas, and stock in a safe deposit company organized under the laws of the state of Kansas, and stock in a corporation organized under the laws of this state owning real estate all or a part of which is occupied or to be occupied by the bank or trust company;~~

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

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

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

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

(3)(e) *A bank's or trust company's total investment or ownership at all times in any one or more of the following shall not exceed $\frac{1}{2}$ 50% of its unimpaired capital stock, surplus, undivided profits and capital notes and debentures; and any such excess shall be removed from the bank's*

or trust company's books unless approval is granted by the ~~state bank~~ commissioner:

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

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

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

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

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

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

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

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

(1) The bank has received title or deed to the property;
(2) the property is in a redemption period following the bank's purchase at a judicial sale; or
(3) the bank has actual control of the property.

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

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

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

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

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

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

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

(B) certify that the bank's loss exposure is limited, as a legal and

accounting matter, and that the bank does not have open-ended liability for the obligations of the corporation or limited liability company;

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

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

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

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

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

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

(3) "Loan" means:

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

(B) a contractual commitment to advance funds;

(C) an overdraft;

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

(i) Discharge in bankruptcy;

(ii) expiration of the statute of limitations;

(iii) judicial decision; or

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

(E) 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.

(4) "Derivative transaction" means 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.

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

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

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

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

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

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

~~(1)~~(A) A guaranty, commitment or agreement to take over or to purchase, made by any federal reserve bank or by any department, bureau, board, commission, agency or establishment of the United States of America, including any corporation wholly owned, directly or indirectly by the United States;

~~(2)~~(B) a perfected interest in a time deposit account in the lending bank. In the case of a time deposit which may be withdrawn in whole or

in part prior to maturity, the bank shall establish written internal procedures to prevent the release of the deposit;

~~(3)(C)~~ a bonded warehouse receipt issued to the borrower by some other person;

~~(4)(D)~~ treasury bills, certificates of indebtedness; or bonds or notes of the United States of America or instrumentalities or agencies thereof; or those fully guaranteed by them;

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

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

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

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

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

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

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

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

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

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

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

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

(f) *Combination rules.*

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

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

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

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

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

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

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

(i) Loans are made to borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower. Common control means to own, control or have the power to vote 25% or more of any class of voting securities or voting interests or to control, in any manner, the election of

a majority of the directors; or to have the power to exercise a controlling influence over the management or policies of another person; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 48. K.S.A. 9-1107 is hereby amended to read as follows: 9-1107. (a) Any bank may borrow an amount not to exceed 100% of ~~its~~ the bank's capital stock and surplus for temporary purposes. ~~This limitation shall not~~

~~apply to any borrowing secured by~~ *The commissioner may authorize borrowing in excess of such limitation.*

(b) *Any bank may borrow without limitation upon legal investment securities, and rediscount and endorse in good faith any of the bank's negotiable notes without limitation.*

(c) ~~Any bank may borrow without limitation for borrowing authorized under the provisions of K.S.A. 1980 Supp. 12-5201 through 12-5218, inclusive, purposes of investing in bonds issued pursuant to K.S.A. 12-5219 et seq., and any amendments thereto, or for borrowing authorized under the provisions of public law 94-490, the mortgage subsidy bond tax act of 1980. The state bank commissioner may authorize borrowing in excess of such limitation. Any bank may borrow upon legal investment securities and rediscount and endorse in good faith any of its negotiable notes, without limitation.~~

Sec. 49. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as follows: 9-1111. The general business of every bank shall be transacted at the place of business specified in ~~its~~ *the bank's* certificate of authority and at one or more branch banks established and operated as provided in this section. ~~Except for the establishment or operation of a trust branch bank or the relocation of an existing trust branch bank pursuant to K.S.A. 9-1135, and amendments thereto,~~ It shall be unlawful for any bank to establish and operate any branch bank or relocate an existing branch bank except as hereinafter provided. Notwithstanding the provisions of this section, any location at which a depository institution, as defined by K.S.A. 9-701, and amendments thereto, receives deposits, renews time deposits, closes loans, services loans or receives payments on loans or other obligations, as agent, for a bank pursuant to ~~subsection (25) of~~ K.S.A. 9-1101(a)(25), and amendments thereto, or other applicable state or federal law, or is authorized to open accounts or receive deposits under ~~subsection (29) of~~ K.S.A. 9-1101(a)(28), and amendments thereto, shall not be deemed to be a branch bank:

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

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

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

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

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

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

(4) the application shall include proof of publication of notice that the applicant bank intends to file or has filed an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall

be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

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

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

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

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

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

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

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

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

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

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

(5) ~~the application shall include proof of publication of notice that applicant bank intends to file an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form pre-~~

scribed by the state banking board and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

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

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

~~(A) There is a reasonable probability of usefulness and success of the proposed branch bank, and~~

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

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

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

~~(e) branch banks which have any bank location which has been established and are is being maintained by a bank at the time of its merger into or consolidation with another bank or at the time its the bank's assets are purchased and its the bank's liabilities are assumed by another bank may continue to be operated by the surviving, resulting or purchasing and assuming bank. The surviving, resulting or purchasing and assuming bank, with approval of the state bank commissioner, may establish and operate a branch bank or banks at the site or sites of the merged, constituent or liquidated bank or banks;~~

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

(g) as a condition to the operation and use of any remote service unit in this state, a state bank or national banking association, each hereinafter referred to as a bank, which desires to operate or enable its customers to utilize a remote service unit must agree that such remote service unit will be available for use by customers of any other bank or banks upon the request of such bank or banks to share its use and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with its the remote service unit's development, installation and operation. The owner of the remote service unit, whether a bank or any other person, shall make the remote service unit available for use by other banks and their customers on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion of all costs, including a reasonable return on capital expenditures incurred in connection with the development, installation and operation of the

remote service unit. Notwithstanding the foregoing provisions of this subsection, a remote service unit located on the property owned or leased by the bank where the principal place of business of a bank, or an attached auxiliary teller facility or branch bank of a bank, is located need not be made available for use by any other bank or banks or customers of any other bank or banks;

(h) for purposes of this section, “remote service unit” means an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted; ~~whether instantaneously or otherwise,~~ to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank or *is activated by a person upon verifiable personal identification.* The term shall include “online” computer terminals *which may be equipped with a telephone or televideo device that allows contact with bank personnel* and “offline” automated cash dispensing machines and automated teller machines; ~~but shall not include computer terminals or automated teller machines or automated cash dispensing machines using systems in which account numbers are not machine read and verified.~~ Withdrawals by means of “offline” systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts;

(i) ~~for purposes of this section, “eligible bank” means a state bank that meets the following criteria:~~

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

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

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

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

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

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

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

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

~~(B) approval of loan applications; or~~

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

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

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

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

~~(1) Operate safe deposit boxes;~~

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

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

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

Sec. 50. K.S.A. 9-1111b is hereby amended to read as follows: 9-1111b. A bank making application to ~~the state banking board or the commissioner~~ for approval of a branch bank shall pay to the commissioner a fee, in an amount established ~~by rules and regulations adopted by the~~

~~commissioner pursuant to section 12, and amendments thereto, to defray the expenses of the board, commissioner or other designees in the examination and investigation of the application. The commissioner shall remit all amounts received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a separate special account in the state treasury for each application the bank investigation fund. The moneys in each such account the bank investigation fund shall be used only to pay the expenses of the board, commissioner or other designees in the examination and investigation of the application to which it relates such applications and any unused balance shall be transferred to the bank commissioner fee fund.~~

Sec. 51. K.S.A. 9-1112 is hereby amended to read as follows: 9-1112.

(a) No bank shall buy, sell or trade tangible property as a business or invest in the stock of another bank or corporation, except as specifically authorized.

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

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

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

(3) the bank's parent company; or

(4) a subsidiary of the bank's parent company ~~without prior approval of the commissioner. Approval of the commissioner need not be obtained for an.~~

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

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

(d) ~~A bank may hold or sell any property coming into its ownership in the collection of debts. All such property except legal investments, shall be sold within one year of acquisition, provided a commercially reasonable sale can occur.~~

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

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

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

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

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

(c) ~~If the date specified in the bylaws falls on a legal holiday, the meeting shall be held, and the directors elected, on the next following business day. If for any reason the election of directors is not made on the day fixed, or in the event of a legal holiday, on the next business day, an election may for any reason the meeting cannot be held on the date specified in the bylaws, the meeting shall be held on any a subsequent~~

day within 60 days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by the shareholders representing $\frac{2}{3}$ of the shares.

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

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

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

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

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

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

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

Sec. 53. K.S.A. 9-1116 is hereby amended to read as follows: 9-1116. *(a)* The board of directors shall hold at least four regular meetings each year, at least one of which shall be held during each calendar quarter. Minutes shall be made of each directors' meeting of a bank or trust company and shall show any action taken by the directors.

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

- (1)* Election of all officers, showing their titles and salaries;
- (2)* approval of all regular employee compensation;
- (3)* prior approval of all bonuses to elected officers and employees, if provided;
- (4)* approval of all loans, including overdrafts. The board may establish a committee with authority to approve loans. The board shall approve a report from the committee summarizing all loans made since the board's last meeting;
- (5)* review and approval of the directors' examination or audit required under K.S.A. 9-1116, and amendments thereto;
- (6)* annual approval of all bank policies;
- (7)* review of all state and federal regulatory examination reports received since the board's last meeting;
- (8)* annual approval of fidelity bond and bank casualty insurance;
- (9)* approval of bank income and expenses and securities transactions;
- (10)* review and ratification of any committee reports; and
- (11)* approval of dividends and a review that the dividends are in compliance with K.S.A. 9-910, and amendments thereto.

(c) In addition, the board of directors or an auditor selected by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 57. K.S.A. 9-1124 is hereby amended to read as follows: 9-1124. No limitation or prohibition otherwise imposed by any provision of state law exclusively relating to banks shall prevent any state bank or banks from investing not more than 10% of the paid-in and unimpaired capital and unimpaired surplus in a bank service ~~corporation~~ company. No bank shall invest more than 5% of its total assets in bank service ~~corporations~~ companies.

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

(a) It shall not be considered unreasonable discrimination for a bank service ~~corporation~~ company to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering

those services, including the cost of capital and a reasonable return thereon; and

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

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

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

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

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

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

(b) Except with the prior approval of the ~~state bank~~ commissioner, a bank service ~~corporation~~ *company* shall not perform the services authorized by this section in any state other than this state and all shareholders of a bank service ~~corporation~~ *company* shall be located in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Actions and administrative proceedings in which the production of bank or trust company records might be necessary or desirable;
- (2) state and federal statutes of limitation applicable to such actions or proceedings;
- (3) the availability of information contained in bank and trust company records from other sources; and
- (4) such other matters as the commissioner shall deem pertinent to the interest of customers and shareholders of banks and trust companies and of the people of this state having such records available.

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

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

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

(h) To the extent that they are not in contravention of any statute of the United States or regulations promulgated thereunder, the provisions

of this section shall apply to all banks and trust companies doing business in this state.

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

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

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

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

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

(d) any transaction from which the officer or director derived an improper personal benefit. ~~For purposes of this section, "executive officer" means the chairperson of the board, the president, each vice president, the cashier, the secretary and the treasurer of a bank or national banking association, unless such officer is excluded by resolution of the board of directors or by the bylaws of the bank or national banking association from participation in the policymaking functions of the bank or national banking association, and the officer does not actually participate in the policymaking functions of the bank or national banking association.~~

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

Sec. 65. K.S.A. 9-1137 is hereby amended to read as follows: 9-1137.

(a) For the purposes of this section:

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

(2) "compliance review committee" means:

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

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

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

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

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

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

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

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

(2) compliance review documents delivered to a federal or state governmental agency remain confidential and are not discoverable or admis-

sible in evidence in any civil action arising out of matters evaluated by the compliance review committee.

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

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

Sec. 66. K.S.A. 9-1138 is hereby amended to read as follows: 9-1138. (a) As used in this section:

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

(2) “Board” means the board of education of a school district and the governing authority of an accredited nonpublic school.

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

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

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

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

(b) *As used in this section:*

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

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

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

~~(d)~~(4) “Commercial activities” means activities in which a bank holding company, a financial holding company, a national bank, or a national bank financial subsidiary may not engage under federal or state law.

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

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

Sec. 69. K.S.A. 9-1204 is hereby amended to read as follows: 9-1204. Any bank may receive deposits from minors or in the name of minors and pay the same upon the order of such minors whether or not ~~said~~ *such* minors are emancipated ~~until receiving certified copy of the appointment of a guardian.~~ Payments so made shall discharge the bank ~~forever~~ from

any further liability on ~~the account of such deposits or the money so paid by the bank.~~

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

Sec. 71. K.S.A. 9-1207 is hereby amended to read as follows: 9-1207. ~~Notice to any bank of An adverse claim to a bank deposit with such bank does not need not be recognized, and shall not be deemed effective to be paid out by the bank, unless and until either the:~~

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

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

- (a) Draft was issued prior to the failure or closing of the drawer bank;
- (b) drawee bank has, on deposit to the credit of the failed or closed drawer bank, sufficient funds to pay the draft; and
- (c) drawee bank has received proof that the draft represents payment of cash letters covering checks that had been charged to the individual accounts of the failed or closed drawer bank prior to the failure or closing of the drawer bank.

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

Sec. 74. K.S.A. 2014 Supp. 9-1215 is hereby amended to read as follows: 9-1215. (a) Subject to the provisions of this section ~~and K.S.A. 9-1216, and amendments thereto,~~ an individual ~~adult or minor, hereafter referred to as the owner,~~ of an account may enter into a written contract with any bank located in this state ~~providing that the balance of the owner's deposit account, or that provides that at the time of the owner's death, the balance of the owner's legal share of a deposit the account, at the time of death of the owner shall be made payable on the death of the owner shall be paid to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If a beneficiary has predeceased the owner, that beneficiary's share shall be divided equally among the remaining beneficiaries unless the contract provides otherwise.~~

(b) If any beneficiary is a minor at the time ~~the account, or any portion of the account, becomes~~ funds become payable to the beneficiary ~~and~~

~~the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.~~

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

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

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

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

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

(2) *of the owner's surviving spouse's intent to claim an elective share under K.S.A. 59-6a214, and amendments thereto, the balance of the owner's share shall be paid to the court having jurisdiction as provided in K.S.A. 59-6a214, and amendments thereto, to the extent of the owner's surviving spouse's elective share, with the beneficiary then receiving the balance of the owner's share, if any remains.*

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

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

(g) For the purposes of this section:

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

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

Sec. 75. K.S.A. 9-1301 is hereby amended to read as follows: 9-1301. Every bank operating under the provisions of ~~this act~~ *the state banking code* and authorized to receive deposits of money shall insure the deposits of each depositor with the federal deposit insurance corporation, or its successor, or with an insurer approved by the state commissioner of insurance in an amount not less than that provided by the federal deposit insurance corporation and shall pay all charges or assessments levied by ~~such deposit insurance corporation, or its successor or such other insurer.~~ Every state bank that accepts deposits of money which does not insure with the federal deposit insurance corporation shall furnish a blanket fidelity bond on all of its officers and employees in a principal amount of not less than 100% of the average total amount of all deposits in the bank, that average total deposits shall mean the average of the total amounts on deposit in such bank on June 30 and December 31 next preceding.

The bond shall be executed by a corporate surety authorized to do business in the state and shall be held by the state bank commissioner for the benefit of the depositors of the bank, and if a receiver is appointed, the commissioner shall collect any moneys due under such bond for the benefit of the depositors. The bond shall provide that it cannot be canceled until at least 30 days after notice has been given to the state bank commissioner unless the commissioner shall authorize its cancellation at an earlier date. The premium on such bond shall be paid by the bank.

Any bank furnishing the bond shall also cause a certified audit of its books and accounts to be made once in each calendar year by an independent certified public accountant licensed to do business in the state or an independent auditor approved by the commissioner, and the accountant or auditor shall audit and verify every account of the bank. The cost of any such audit shall be paid by the bank, and a copy of the report of such audit shall be filed with the state bank commissioner. Upon receipt of the report, the bank commissioner shall examine the report and shall transmit the report, with any recommendations as to action thereon, to the state banking board and the state banking board shall, without delay, take such necessary action as may be indicated by the audit report and the recommendations of the commissioner.

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

Sec. 76. K.S.A. 9-1304 is hereby amended to read as follows: 9-1304. (a) *Upon the approval of the commissioner or*, the receiver or liquidator; or the board of directors of any bank which may be closed because of its inability to meet the demands of its depositors may borrow from the federal deposit insurance corporation or its successor, and pledge any part or all of its assets as security, ~~whether such bank is insolvent or not, except that all such loans first must have the approval of the commissioner.~~

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

Sec. 77. K.S.A. 2014 Supp. 9-1401 is hereby amended to read as follows: 9-1401. (a) The governing body of any municipal corporation or quasi-municipal corporation shall designate by official action recorded upon its minutes the banks, savings and loan associations and savings banks which shall serve as depositories of its funds and the officer and official having the custody of such funds shall not deposit such funds other

than at such designated banks, savings and loan associations and savings banks. The banks, savings and loan associations and savings banks which have main or branch offices in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located shall be designated as such official depositories if the municipal or quasi-municipal corporation can obtain satisfactory security therefor.

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

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

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

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

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

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

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

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

(c) ~~Such bank, savings and loan association or savings bank may give a corporate surety bond of some surety corporation authorized to do busi-~~

ness in this state, which bond shall be in an amount equal to the public moneys or funds on deposit at any given time less the amount of such public moneys or funds which is insured by the federal deposit insurance corporation or its successor and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal corporation or quasi-municipal corporation making such deposits.

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

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

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

(3) bonds of the state of Kansas;

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

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

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

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

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

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

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

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

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

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

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

(i) Are underwritten by the federal national mortgage association, the federal home loan mortgage corporation, the federal housing administra-

tion or the veterans administration standards; or are valued pursuant to rules and regulations which shall be adopted by both the state bank commissioner and the savings and loan commissioner after having first being submitted to and approved by both the state banking board under K.S.A. 9-1713, and amendments thereto, and the savings and loan board. Such rules and regulations shall be published in only one place in the Kansas administrative regulations as directed by the state rules and regulations board.

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

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

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

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

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

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

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

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

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

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

(a) During the periods of peak deposits occurring at tax paying time and tax distributing time and continuing for a period of not to exceed 60 continuous days at any given time and not to exceed 120 days in any calendar year the amount of security for the ~~deposit of public moneys deposits of municipal corporations or quasi-municipal corporations~~ as required under K.S.A. 9-1402, and amendments thereto, may be reduced by not more than ½ in an amount thereof up to 50% of the amount on deposit during the peak period.

(b) ~~The provisions of this section shall apply only to the deposits of all municipal corporations and quasi-municipal corporations, but~~ If the custodian of the funds of each ~~of such municipal corporations or quasi-municipal corporations~~ municipal corporation or quasi-municipal corporation together with an officer of the depository bank, savings and loan association or savings bank ~~may~~ agree to reduce the amount of security as provided in subsection (a), then the parties shall enter into an agreement which designates in writing the beginning and end of each such ~~sixty-day~~ period, and a copy thereof, fully executed, shall be kept on file in the office of the governing body of such municipal corporation or quasi-

municipal corporation and in the files of such bank, savings and loan association or savings bank.

Sec. 80. K.S.A. 9-1405 is hereby amended to read as follows: 9-1405. (a) All bonds and securities given by any bank, savings and loan association or savings bank to secure public moneys of the United States or any board, commission or agency thereof, shall be deposited as required by the United States government or any of its designated agencies.

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

- (1) *A Kansas state bank;*
- (2) *a Kansas national bank;*
- (3) *a state bank organized in another state and which has a ~~main or~~ branch office in this state, a;*
- (4) *a trust company incorporated under the laws of this state or another state;; or*
- (5) *the federal home loan bank of Topeka ~~or.~~*

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

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

(e) *This section shall not prohibit any custodial bank or trust company ~~receiving securities, security entitlements and financial assets on deposit from issuing a receipt and from depositing securities, security entitlements and financial assets identified in the receipt in such bank's account with any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, in the custodial bank or trust company's account if:~~*

- (1) *The custodial bank or trust company's account is located at a bank or trust company organized under the laws of any state, the United States or any centralized securities depository wherever located within the United States;; and*
- (2) *the custodial bank or trust company issues a receipt which identifies the securities, security entitlements and financial assets on deposit at the custodial bank or trust company.*

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

- (1) *Direct or indirect ownership by any parent corporation ~~of the depository bank, or with any bank, trust company, or national bank, having;~~*
- (2) *common controlling shareholders, ~~having a;~~*
- (3) *common majority of the board of directors ~~or having;~~ or*
- (4) *common directors with the ability to control or influence directly or indirectly the acts or policies of the *depository* bank, savings and loan association or savings bank securing such public deposits.*

(g) *When securities, security entitlements and financial assets are deposited with the state treasurer as authorized by this ~~subsection~~ section, the state treasurer shall make a charge for such service which is equivalent*

to the reasonable and customary charge made therefor. ~~Securities, security entitlements and financial assets securing the deposits of any municipal corporation or quasi-municipal corporation may be deposited with the federal reserve bank of Kansas City to be there held in such manner, under regulations and operating letters of the bank, as to secure payment of the deposits of the municipal corporation or quasi-municipal corporation in the depository institution.~~

~~(e) The depository bank, savings and loan association or savings bank and any agent, trustee, wholly owned subsidiary or affiliate having identical ownership granting a security interest shall enter into a written agreement with the municipal corporation or quasi-municipal corporation granting the municipal corporation or quasi-municipal corporation a security interest in the securities, security entitlements and financial assets qualified under K.S.A. 9-1402, and amendments thereto, to secure payment of deposits of public moneys of the municipal corporation or quasi-municipal corporation. Such security interests shall be perfected by the depository bank, savings and loan association or savings bank and any agent, trustee, wholly owned subsidiary or affiliate having identical ownership granting a security interest causing control of the securities, security entitlements and financial assets under the Kansas uniform commercial code to be given to the municipality or quasi-municipality. The security agreement and~~

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

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

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

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

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

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

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

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

(a) ~~“Bank” means any bank incorporated under the laws of this state or any other state, or organized under the laws of the United States and which has a main or branch office in this state~~ *“Branch” means any office within this state or another state, other than the main office, that is approved as a branch by a federal or state supervisory agency and at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device, a loan production office or a deposit production office;*

(b) *“centralized securities depository” means a clearing agency reg-*

istered with the securities and exchange commission which provides safekeeping and book-entry settlement services to its participants;

(c) “government unit” means any state, county, municipality or other political subdivision thereof;

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

(e) “Kansas state bank” means a Kansas state chartered bank;

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

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

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

~~(e)~~(i) “savings bank” means any savings bank organized under the laws of the United States and which has a main or branch office in this state; and

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

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

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

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

~~(h)~~(j) “securities,” “security entitlements,” “financial assets,” “securities account,” “security agreement,” “security interest,” “perfection” and “control” shall have the meanings given such terms under the Kansas uniform commercial code.

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

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

~~The rights, duties, powers and privileges of any such bank, trust company or safe deposit corporation in any such transaction shall be that of landlord and for all purposes the tenant or, the lessee shall be deemed by law to be in possession of such box and the contents thereof. The~~

lessor shall not be charged with knowledge of the contents of any such box. The lessor may limit its liability to the lessee by provisions contained within a lease agreement, ~~except that~~ but the lessor shall be liable for the acts of its officers and employees for failure to exercise ordinary care.

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

Sec. 86. K.S.A. 9-1504 is hereby amended to read as follows: 9-1504. (a) In the event the sole lessee or all lessees in joint tenancy named in the lease agreement covering a safe deposit box rental shall die, the safe deposit box may be opened, forcibly if necessary, at any time thereafter, in the presence of persons ~~claiming to be interested in the contents thereof holding a legal or beneficial interest relating to the lessee,~~ by two employees of the lessor, one of whom shall be an officer of the lessor. *The contents shall be disposed of as follows:*

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

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

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

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

Sec. 87. K.S.A. 9-1505 is hereby amended to read as follows: 9-1505. Upon the death of any lessee of a safe deposit box and upon the request of the district court or the county clerk or the director of taxation for the state of Kansas, the lessor shall ~~reply to such request and inform such official if the~~ *disclose whether a designated person was the lessee of a safe deposit box at the time of death.*

Sec. 88. K.S.A. 9-1506 is hereby amended to read as follows: 9-1506. (a) The lessor shall have a lien upon the contents of any safe deposit box for the rental thereon. ~~¶~~

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

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

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

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

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

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

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

- (1) *Receive for safekeeping personal property of every description;*
- (2) *accept and execute any trust agreement and perform any trustee duties as required by such trust agreement;*
- (3) *act as agent, trustee, executor, administrator, registrar of stocks and bonds, conservator, assignee, receiver, custodian, transfer agent, corporate trustee, corporate agent or attorney-in-fact in any agreed-upon capacity;*
- (4) *accept and execute all trusts and to perform any fiduciary duties as may be committed or transferred to it by order, judgment or decree of any court of record of competent jurisdiction;*
- (5) *act as executor or trustee under the last will and testament, or as administrator, with or without the will annexed to the letters of administration, of the estate of any deceased person;*
- (6) *be a conservator for any minor, incapacitated person or trustee for any convict under the appointment of any court of competent jurisdiction;*
- (7) *receive money in trust for investment in real or personal property of every kind and nature and to reinvest the proceeds thereof;*
- (8) *act as either an originating trustee or as a contracting trustee pursuant to K.S.A. 9-2107, and amendments thereto;*
- (9) *buy and sell foreign or domestic exchange, gold, silver, coin or bullion;*
- (10) *act in any ~~other~~ fiduciary capacity in the same manner in and to perform any act as a fiduciary which trust companies incorporated under the laws of this state are permitted to act, including but not limited to the right of succession to individuals, corporations, associations, national bank associations or others, with or without reappointment, in any such office or capacities may perform under any provision of the banking or insurance laws of this state, including, without limitation, acting as a successor fiduciary to any trust company upon liquidation pursuant to K.S.A. 9-2107, and amendments thereto; and*
- (11) *to perform or purchase trust services for or from a bank or service corporation through a trust service agency agreement provided the commissioner is notified 30 days after contracting for the service. Such notification shall include the trust services provided, the name of the servicer and the date the service will commence.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Funds held by such bank in trust ~~that are awaiting investment or distribution, less the amount of insurance carried in which is insured by the federal deposit insurance corporation, shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it first shall set aside in the trust department,~~ *have United States*

bonds or other securities approved by the commissioner *pledged to such funds* in an equal sum.

Sec. 92. K.S.A. 9-1604 is hereby amended to read as follows: 9-1604. Upon the affirmative vote of a majority of the outstanding voting stock, any bank having trust authority ~~may liquidate, or may consolidate or merge its trust department with any other bank having trust authority or with any trust company, and any trust company may liquidate, or may consolidate or merge with any other trust company or with any bank having trust authority, except that such liquidation, consolidation or merger shall not be effective until the commissioner has approved the same in writing after the terms have been submitted to the commissioner for examination and approval~~ *terminate the bank's trust business. The termination of trust services shall be done in accordance with the Kansas uniform trust code and with the contracting trustee provisions of K.S.A. 9-2107, and amendments thereto. Any bank terminating the bank's trust business may surrender such bank's special permit for trust authority or be granted inactive status pursuant to K.S.A. 9-1703, and amendments thereto.*

Sec. 93. K.S.A. 9-1607 is hereby amended to read as follows: 9-1607. (a) ~~Any state or national~~ bank or trust company, when acting ~~in this state~~ as a fiduciary or a co-fiduciary with others, ~~may~~ *and* with the consent of its co-fiduciary or co-fiduciaries, if any, who are hereby authorized to give such consent, *may* cause any investment held in any such capacity; to be registered and held in the name of a nominee or nominees of such bank or trust company. Such bank or trust company shall be liable for the acts of any such nominee with respect to any investment so registered.

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

Sec. 94. K.S.A. 9-1609 is hereby amended to read as follows: 9-1609. (a) ~~Any state or national~~ bank or trust company ~~qualified~~ *authorized* to act as fiduciary ~~in this state~~ may establish common trust funds for the purpose of furnishing investments ~~to itself:~~

(1) *Such bank or trust company as fiduciary, or to itself;*
 (2) *such bank or trust company and others, as cofiduciaries or to;*
 (3) another state or national bank or trust company, as fiduciary, which is a subsidiary of the same bank holding company of which it is a subsidiary, as such terms are defined in K.S.A. 9-519, and amendments thereto; ~~and any state or national or~~

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

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

Sec. 95. K.S.A. 9-1611 is hereby amended to read as follows: 9-1611. Whenever the governing instrument of any trust authorizes a bank or trust company acting as fiduciary to ~~either engage in any of the following activities, such instrument shall also be deemed to authorize the bank or trust company to engage in the following activities, with any company which has or acquires control of such bank or trust company:~~

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

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

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

Sec. 96. K.S.A. 9-1612 is hereby amended to read as follows: 9-1612. For the purposes of ~~this act~~ *K.S.A. 9-1601 through 9-1611, and amendments thereto*, any company has control over a bank or trust company if: ~~(a)~~—the company directly or indirectly, or acting through one or more persons:

- (a) Owns, controls or has power to vote ~~twenty-five percent (25%)~~ 25% or more of any class of voting securities of the bank or trust company; ~~or~~
- (b) ~~the company~~ controls, in any manner, the election of a majority of the directors or trustees of the bank or trust company; *or*
- (c) *has the power to direct the management or policies of the bank or trust company.*

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

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

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

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

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

- (1) *Federal deposit insurance corporation or its successor;*
- (2) *federal reserve bank; or*
- (3) *consumer financial protection bureau.*

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

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

- (1) The relationship between such bank or trust company and any such affiliate; and
- (2) the effect of such relationship on the bank or trust company.

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

Sec. 99. K.S.A. 2014 Supp. 9-1703 is hereby amended to read as

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

(b) (1) The expense of every regular trust examination, together with the expense of administering trust laws, including salaries, travel expenses, supplies and equipment, shall be paid by the trust companies and trust departments of banks of this state, ~~and for this purpose, the bank commissioner~~. Prior to the beginning of each fiscal year, ~~the commissioner shall~~ make an estimate of the trust expenses to be incurred by the department during such fiscal year. The commissioner shall allocate and assess the trust departments in the state on the basis of their total fiduciary assets, as reflected in the last December 31 report called for by the federal deposit insurance corporation under the provisions of section 7 of the federal deposit insurance act, 12 U.S.C. § 1817, ~~and amendments thereto~~, or K.S.A. 17-5610, and amendments thereto, except that the annual assessment shall not be less than \$1,000 for any active trust department. The commissioner shall allocate and assess the trust companies in the state on the basis of their fiduciary assets as reflected in the last December 31 report filed with the commissioner pursuant to K.S.A. 9-1704, and amendments thereto, except that the annual assessment will not be less than \$1,000 for any active trust company. A trust department *or trust company* which has no fiduciary assets, as reflected in the last December 31 report called for by the federal deposit insurance corporation under the provisions of section 7 of the federal deposit insurance act, 12 U.S.C. § 1817, ~~and amendments thereto~~, or K.S.A. 17-5610, and amendments thereto, may be granted inactive status by the commissioner and the annual assessment shall not be more than \$100 for the inactive trust department. ~~A trust company which has no fiduciary assets, as reflected in the last preceding year-end report filed with the commissioner, may be granted inactive status by the commissioner and the annual assessment shall not be more than \$100 for an inactive trust company.~~

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

(c) (1) A statement of each assessment made under the provisions of subsection (a) or (b) shall be sent by the commissioner on July 1 or the next business day thereafter, to each bank, savings and loan association, trust department and trust company that exists as a corporate entity with the secretary of state's office ~~as of the close of business on June 30~~, and is authorized by the ~~office of the state bank~~ commissioner to conduct banking, savings and loan or trust business. The assessment may be collected by the ~~state bank~~ commissioner as needed and in such installment periods as the commissioner deems appropriate, but no more frequently than monthly. When the commissioner issues an invoice to collect the assessment, payment shall be due within 15 days of the date of the invoice. The commissioner may impose a penalty upon any bank, savings and loan association, trust department or trust company which fails to pay its annual assessment when it is 15 days or more past due. The penalty shall be assessed in the amount of \$50 for each day the assessment is past due.

(2) The commissioner shall remit all moneys received from such examination fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state

treasury. ~~Ten percent~~ *and credit 10%* of each deposit shall be credited to the state general fund ~~and with the balance shall be credited transferred~~ to the bank commissioner fee fund. All expenditures from the bank commissioner fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner or by a person or persons designated by the commissioner.

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

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

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

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

Sec. 100. K.S.A. 2014 Supp. 9-1704 is hereby amended to read as follows: 9-1704. (a) Each bank or trust company shall be required to make a report to the commissioner at any time upon the commissioner’s request. Such reports shall be in a form *and manner* prescribed by the commissioner and shall be verified by the president, chief executive officer or cashier and attested by at least three directors of the bank or trust company, none of whom shall have verified the report. The report shall show in detail the assets and liabilities of the bank or trust company at the close of business upon the date determined by the commissioner ~~and such report shall be forwarded to the commissioner~~. The commissioner may require a copy of the report, or a portion thereof, to be published in a newspaper, published in or having a general circulation in the place where the bank or trust company is located, within 10 days after the report is forwarded to the commissioner. The expense of publication shall be paid by the bank or trust company.

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

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

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

Sec. 101. K.S.A. 9-1708 is hereby amended to read as follows: 9-1708. ~~Whenever any~~ No officer, director, employee or agent of any bank or trust company shall refuse to submit the books, records, papers and instru-

~~ments of such bank or trust company to the examination and inspection of the bank or trust company by the commissioner, or any of the commissioner's assistants or examiners, or in any manner obstruct or interfere with the examination and investigation of such bank or trust company; or refuse to be examined on under oath concerning any of the affairs of such bank or trust company, the commissioner may revoke the authority of such bank or trust company to transact business, and with the concurrence of the attorney general may institute proceedings for the appointment of a receiver for such bank or trust company. The commissioner may take such action as available pursuant to K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy any violation of the provisions of this section.~~

Sec. 102. K.S.A. 9-1709 is hereby amended to read as follows: 9-1709. ~~Any (a) No bank or trust company which shall refuse or neglect for a period of 90 days after demand in writing is made to comply with any requirement lawfully made upon it by the commissioner shall be deemed to have forfeited its franchise and the commissioner shall thereupon revoke its authority to transact business. The commissioner shall give notice of such revocation to the president, cashier, or other managing officer of such bank or trust company and also by publishing a copy of such order of revocation in the Kansas register. The attorney general, upon the request of the commissioner, then shall begin action for the appointment of a receiver for such bank or trust company and to dissolve the same. for more than 60 days to comply with or respond to a written, lawful request of the commissioner. If the bank or trust company does not comply with or respond to any such request, the commissioner may issue an order notifying the bank or trust company that continued failure to comply with the request shall result in the forfeiture of the authority to transact business. Any bank or trust company receiving notice of such order shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner is subject to review in accordance with the Kansas judicial review act.~~

~~(b) If any request or requirement made pursuant to an order issued under subsection (a) remains unsatisfied after a period of time as provided in the order, the commissioner shall appoint a receiver pursuant to article 19 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto. The order appointing the receiver shall not be subject to the Kansas administrative procedure act or the Kansas judicial review act.~~

~~(c) The commissioner may take such additional action as available pursuant to K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to protect the depositors and creditors of the bank or trust company.~~

Sec. 103. K.S.A. 9-1712 is hereby amended to read as follows: 9-1712. (a) All information the state bank commissioner generates in making an investigation or examination of a state bank or trust company shall be confidential information.

(b) All confidential information shall be the property of the state of Kansas and shall not be ~~subject to disclosure~~ disclosed except upon the written approval of the ~~state bank~~ commissioner.

~~(c) Except for disclosure pursuant to subsection (e) and K.S.A. 9-2014, and amendments thereto, the commissioner shall give 10 days prior written notice to the affected bank or trust company of intent to disclose confidential information to the affected bank or trust company, except that, such confidential information shall not apply to reports filed pursuant to K.S.A. 9-2014, and amendments thereto.~~

~~(d) Any bank or trust company receiving notice as provided in subsection (c), of the intent to disclose confidential information may object to the disclosure of the confidential information and shall be afforded the right to a hearing in accordance with the provisions of the Kansas administrative procedure act.~~

~~(e) (1) The commissioner may furnish to the federal deposit insurance corporation, or to any officer or examiner thereof, a copy of any or all examination reports made by the commissioner, or the commissioner's examiners, of any bank or trust company insured by such corporation. The commissioner may disclose to the federal deposit insurance corporation, or any official or examiner thereof, any and all information con-~~

tained in the commissioner's office concerning the condition of any bank or trust company insured by such corporation.

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

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

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

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

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

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

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

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

(h) The commissioner may provide any person with a letter of good standing upon request. Any person requesting a letter of good standing shall pay to the commissioner a fee in an amount established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in investigating and complying with the request. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 104. K.S.A. 2014 Supp. 9-1713 is hereby amended to read as follows: 9-1713. Except as otherwise provided by law, in order to promote safe and sound practices for entities regulated by the state bank commissioner, the commissioner shall ~~adopt~~ promulgate such rules and regulations as shall be necessary to implement the provisions of K.S.A. 9-542, and amendments thereto, commonly known as the state banking code. All rules and regulations of general application shall first be submitted by the commissioner to the state banking board for its approval and upon approval shall be filed as provided by article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 105. K.S.A. 9-1714 is hereby amended to read as follows: 9-1714. (a) Whenever the state bank commissioner shall determine that the business of any bank or trust company is being conducted in an unlawful or unsound manner, ~~such~~ the commissioner may appoint a special deputy

bank commissioner who shall immediately take charge of the operation of such bank or trust company for the purpose of ~~correcting~~ resolving any unlawful or unsound condition or operation. ~~Such appointment shall be made in accordance with the provisions of K.S.A. 77-536, and amendments thereto.~~

(b) After appointment, the special deputy bank commissioner shall continue to serve under the direction of the commissioner for such period of time as may be deemed reasonable and necessary by the commissioner and, during such period, such special deputy bank commissioner's salary, which shall be determined by the commissioner, and expenses shall be borne by the bank or trust company under supervision.

(c) After such appointment, any such bank or trust company shall have the right ~~within 15 days from the date of the notice of such appointment to appeal in writing to the state banking board, and upon such appeal, the state banking board shall fix a date for a hearing, which hearing shall be within 30 days from the date of such appeal and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The board shall render an order as to the correctness or incorrectness of the commissioner's decision to take over the conduct of such bank or trust company, and the order of such board shall be final and conclusive to a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.~~

Sec. 106. K.S.A. 9-1715 is hereby amended to read as follows: 9-1715.

(a) (1) ~~Notwithstanding any provision of law to the contrary, the commissioner shall have the power to authorize any or all state banks to engage in any activity in which such banks could engage were they operating as any insured depository institution at the time such authority is granted, including but without limitation because of enumeration the power to do any act, and own, possess and carry as assets, property of such character including stocks, bonds or other debentures which, at the time authority is granted, is authorized under applicable laws and regulations to be done by any insured depository institution notwithstanding any restriction elsewhere contained in the statutes of the state of Kansas any other bank, savings and loan association or a savings bank, organized under the laws of the United States, this state or any other state whose deposits are insured by the United States government is lawfully authorized to engage in at the time authority is granted.~~

(2) ~~This power shall include. The commissioner shall have the power to authorize any or all Kansas trust companies, trust departments or both to engage in any trust-related activity in which the any trust company or trust department of any insured depository institution with trust powers could engage, organized under the laws of the United States, this state or any other state, is lawfully authorized to engage in at the time authority is granted. This power shall be in addition to any and all other powers granted to the commissioner.~~

(b) (1) The commissioner shall exercise the power granted in subsection (a) by the issuance of a special order if the commissioner deems it reasonably required to: (A) Preserve and protect the welfare of a particular institution; ~~or if the commissioner deems it reasonably required to;~~ or (B) preserve the welfare of all state banks or trust companies and to promote competitive equality of state and other insured depository institutions.

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

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

- (1) The president and the minority leader of the senate;
- (2) the chairperson and ranking minority member of the senate standing committee on financial institutions and insurance;

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

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

(5) the governor.

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

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

(f) ~~As used in this statute, "insured depository institution" means a bank, a savings and loan association or a savings bank organized under the laws of the United States, this state, or any other state, whose deposits are insured by the United States government. The powers contained in this section shall be in addition to any and all other powers granted to the commissioner.~~

Sec. 107. K.S.A. 9-1716 is hereby amended to read as follows: 9-1716. If the ~~state bank~~ commissioner shall determine that the condition of any bank is such that dividends should not be declared and paid ~~upon its capital stock from capital~~ or that such dividends should be declared and paid only subject to certain conditions, the commissioner shall render an order in accordance with the provisions of K.S.A. 77-536, and amendments thereto, that no such dividends be declared and paid or that such dividends be declared and paid only subject to certain conditions. The board of directors of the bank shall comply with such order until such time as it is rescinded or modified by the commissioner by subsequent order served upon the bank or by the state banking board upon appeal. ~~Within 15 days after prohibiting or limiting the declaration and payment of dividends. Upon receiving notice of the order, the bank shall have the right to appeal in writing to the board from the commissioner's determination and order by filing a notice of appeal with the commissioner, and thereupon the board shall fix a date for a hearing, which hearing shall be held within 30 days from the date such notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its order affirming, modifying or rescinding the order of the commissioner, and the order of the board shall be final and conclusive and shall be complied with by the board of directors of the bank a hearing to be conducted in accordance with the Kansas administrative procedure act. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.~~

Sec. 108. K.S.A. 9-1717 is hereby amended to read as follows: 9-1717. (a) Except with the written consent of the commissioner, no person shall serve as a director, officer or employee of a bank who has been convicted, or who is hereafter convicted, of any felony or any crime involving dishonesty or a breach of trust.

(b) Any bank which willfully violates subsection (a), shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of ~~\$100~~ \$1,000 for each day the violation continues.

Sec. 109. K.S.A. 9-1719 is hereby amended to read as follows: 9-1719. As used in K.S.A. 9-1719 to ~~9-1723~~ 9-1722, inclusive, *and amendments thereto*:

(a) "Control" means the power ~~directly or indirectly to direct the management or policies of a financial institution or to:~~

- (1) ~~Vote 25% or more of any class of voting shares of a bank;~~
- (2) ~~direct, in any manner, the election of a majority of the directors;~~
or
- (3) ~~direct or exercise a controlling influence over the management or policies.~~
- (b) ~~“Bank” means a state bank or trust company incorporated under the laws of Kansas.~~
- (c) ~~“Commissioner” means the Kansas state bank commissioner.~~
- (d) ~~“Person” means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed in this subsection.~~
- (e) ~~“Board” means the Kansas banking board.~~

Sec. 110. K.S.A. 9-1720 is hereby amended to read as follows: 9-1720. *Except with the approval of the commissioner, or as otherwise permitted by the state banking code, it shall be unlawful for a person, acting directly or indirectly or through concert with one or more persons; to:*

- (a) ~~Acquire control of any bank through purchase, assignment, pledge or other disposition of voting shares of such bank, except with the approval of the commissioner or as otherwise allowed by this act or trust company; or~~
- (b) ~~commence any merger transaction with a bank or trust company which includes, but is not limited to, any merger, consolidation, acquisition of assets or assumption of any liabilities.~~

Sec. 111. K.S.A. 2014 Supp. 9-1721 is hereby amended to read as follows: 9-1721. (a) ~~The party proposing to acquire, control or effectuate a merger transaction, hereinafter referred to as the applicant, shall apply in writing for approval from the commissioner shall be given at least 60 days’ prior written notice of any proposed bank acquisition to the proposed change of control or merger transaction. If the commissioner does not issue an order disapproving the proposed acquisition within that time or extend the period during which a disapproval may issue for another 30 days, the proposed acquisition act on the application within the 60-day time period, the application shall stand approved. The commissioner may, for any reason, extend the time period to act on an application for an additional 30 days. The period for disapproval time period to act on an application may be further extended only if the commissioner determines that any acquiring party the applicant has not furnished all the information required under K.S.A. 9-1722, and amendments thereto, or that, in the commissioner’s judgment, any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the commissioner issues written notice of the commissioner’s intent not to disapprove the action.~~

(b) ~~The commissioner shall serve the acquiring party with an order of disapproval. The order shall provide a statement of the basis for the disapproval.~~

(c) ~~Within 15 days after service of an order of disapproval, the acquiring party may request a hearing on the proposed acquisition with the board. Upon receipt of a timely request, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act.~~

(d) ~~Any disapproval by the board of a proposed acquisition is subject to review in accordance with the Kansas judicial review act.~~

(e) ~~Actual expense incurred by the commissioner or board in carrying out any investigation that may be necessary or required by statute shall be paid by the person submitting the proposed acquisition. Upon the filing of an application, the commissioner shall make an investigation of each party to the change of control or merger transaction. The commissioner may deny the application if the commissioner finds the:~~

- (1) ~~Proposed change of control or merger transaction would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the business of banking or trust services in any part of this state;~~
- (2) ~~financial condition of any party to a change of control or merger transaction might jeopardize the financial stability of the bank or trust company or prejudice the interests of the depositors of a bank;~~
- (3) ~~competence, experience or integrity of any party to a change of~~

control or merger transaction or of any of the proposed management personnel indicates it would not be in the interest of the depositors of the bank, the clients of trust services, or in the interest of the public to permit such person to control the bank or trust company; or

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

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

Sec. 112. K.S.A. 2014 Supp. 9-1722 is hereby amended to read as follows: 9-1722. (a) ~~A notice of a proposed bank acquisition~~ An application filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:

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

(2) a statement of the assets and liabilities of each person by whom or on whose behalf the ~~acquisition~~ *change of control or merger transaction* is to be made, ~~as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded and an interim statement of the assets and liabilities for each such person, together~~ *along with any* related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the ~~filing of the notice~~ *application*. Individuals who own 10% or more shares in a bank holding company, as defined in K.S.A. 9-519, and amendments thereto, shall file the financial information required by this paragraph;

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

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

(5) any plans or proposals which any ~~acquiring party making the acquisition~~ *applicant* may have to liquidate the bank, ~~to sell its assets or merge it with any company or trust company~~ or to make any other major change in its business or corporate structure or management;

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

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

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

~~(8)~~ (9) any additional relevant information ~~in such forms as the department may require by specific request in connection with any particular notice~~ *the form and manner prescribed by the commissioner.*

(b) With regard to any trust company which files a notice pursuant to this section, the commissioner may require fingerprinting of any proposed officer, director, shareholder or any other person deemed neces-

sary by the commissioner. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons proposing to acquire the trust company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(c) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of a statement filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

(d) ~~At the time of filing a notice of a proposed bank acquisition an application pursuant to K.S.A. 9-1721, and amendments thereto, or an application filed pursuant to subsection (c), the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.~~

Sec. 113. K.S.A. 9-1724 is hereby amended to read as follows: 9-1724. ~~(a) Before any bank can merge, consolidate with or transfer its assets and liabilities under the provisions of article 67 or article 68 of chapter 17 of the Kansas Statutes Annotated, the bank concerned in such merger, consolidation or transfer shall file, or cause to be filed, with the state banking commissioner, certified copies of all proceedings had by its directors and stockholders relating to such merger, consolidation or transfer. The stockholders' proceedings shall show that a majority of the outstanding voting stock was voted in favor of the merger, consolidation or transfer. The stockholders' proceedings shall also contain a complete copy of the agreement made and entered into by the bank, with reference to such merger, consolidation or transfer. The provisions of this act The provisions of K.S.A. 9-1720 through 9-1724, and amendments thereto, shall not apply to the merger, consolidation or transfer of assets and liabilities transaction of a bank or trust company when the surviving entity is a national banking association or other federally chartered financial institution, except that the bank shall provide written notification to the state bank commissioner of such a merger, consolidation or transfer of assets and liabilities at least 10 days prior to its consummation. In addition,~~

~~(b) Not more than 15 days following such a any merger, consolidation or transfer of assets and liabilities, the bank transaction, any bank or trust company that will cease to exist shall surrender its such bank's or trust company's state certificate of authority or charter and shall certify in writing that the proper instruments as required by the Kansas general corporation code have been executed and filed in accordance with K.S.A. 17-6003, and amendments thereto.~~

~~Upon the filing of the stockholders and directors' proceedings, the commissioner shall make an investigation of each party to the merger, consolidation or transfer to determine whether:~~

- ~~(1) The interests of the depositors, creditors and stockholders of the bank are protected;~~
- ~~(2) the merger, consolidation or transfer is in the public interest; and~~
- ~~(3) the merger, consolidation or transfer is made for legitimate purposes.~~

~~The commissioner's consent to or rejection of such merger, consolidation or transfer shall be based upon such investigation. No merger, consolidation or transfer shall be made without the consent of the com-~~

missioner. At the time of filing the request for merger, consolidation or transfer, a fee shall be paid to the commissioner in an amount established by rules and regulations adopted by the commissioner.

(c) Notice of the merger, consolidation or transfer transaction shall be published at least once each week for three consecutive weeks before or after the merger, consolidation or transfer is to become effective, at the discretion of the commissioner, twice in a newspaper of general circulation published in each city or county in which the bank is located, or the newspaper nearest such city or county and a certified copy of the each notice shall be filed with the commissioner. The first publication shall be no later than five days after an application is filed. The second publication shall be on the 14th day after the date of the first publication or, if the newspaper does not publish on the 14th day, then the date that is the closest to the 14th day. The notice shall be in the form prescribed by the commissioner and shall provide for a comment period of not less than 10 days after the date of the second publication.

(b) ~~As used in this section, "bank" means a state bank or trust company incorporated under the laws of Kansas.~~

Sec. 114. K.S.A. 2014 Supp. 9-1805 is hereby amended to read as follows: 9-1805. (a) If the *state banking* board finds in accordance with this section that any current or former officer or director of any bank or trust company has been dishonest, reckless or incompetent in performing duties as such officer or director or willfully or continuously fails to observe any legally made order of the commissioner or the *state banking* board, the *state banking* board may take one or more of the following actions:

- (1) Remove such officer or director; and
- (2) prohibit such officer's or director's further participation in any manner in the conduct of the affairs of any state bank or trust company in Kansas.

(b) ~~Prior to removing such officer or director, or prohibiting such officer's or director's participation in the conduct of the affairs of any state bank or trust company in Kansas, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. The officer or director shall have the right to a hearing before the state banking board to be conducted in accordance with the Kansas administrative procedure act. Any action of the state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act.~~

(c) ~~The board may recess or continue any hearing from time to time. If upon the conclusion of such hearing, the state banking board determines that the officer or director has been dishonest, reckless or incompetent in performing duties as such an officer or director, or has willfully or continuously failed to comply with any legally made order of the commissioner or state banking board, the state banking board may order the officer's or director's office forfeited and vacated officer or director to vacate the office and prohibit such officer's or director's further participation in the conduct of the affairs of any state bank or trust company in Kansas. The state banking board shall mail a copy of its removal order to the bank or trust company which where such officer or director was serving. If the order prohibits such officer's or director's further participation in the conduct of the affairs of any state bank or trust company in Kansas, such order shall be published in the Kansas register within 30 days after such order becomes final.~~

(d) ~~During the time from and after any legally made order by the commissioner and upheld by the board, or order made by the board, and not complied with by any officer or director the board may place a special deputy in the bank up to and until the final disposition of the order by compliance or final disposition by order of the district court.~~

(e) ~~Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. If on review the court upholds an order of the board removing an officer or director or if review of such an order is not sought within the time allowed by law, the office of the officer or director shall be forfeited and vacated by law and such office shall then be filled in accordance with existing statutes and bylaws by another person or persons.~~

Sec. 115. K.S.A. 9-1807 is hereby amended to read as follows: 9-1807.

(a) If the ~~state bank~~ commissioner ~~shall determine finds~~ that any bank or trust company is engaging ~~or, has engaged, or the commissioner has reasonable cause to believe that the bank or trust company~~ or is about to engage; in an unsafe or unsound practice ~~in conducting the business of such bank or trust company~~; or if the commissioner ~~shall determine finds~~ that any bank or trust company is violating ~~or, has violated; or the commissioner has reasonable cause to believe that the bank or trust company~~ is about to violate a law, rule; *and* regulation or order of the commissioner or state banking board, the commissioner may issue and serve upon the bank or trust company a notice of charges ~~in respect thereof~~. The notice *of charges* shall contain a statement of the facts ~~constituting the alleged unsafe or unsound practice or practices or the alleged violation or violations that forms the basis for a proposed cease and desist order~~; and shall state the time and place at which a hearing will be held by the *state banking* board to determine whether an order to cease and desist therefrom should be issued by the *state banking* board against the bank or trust company. Such hearing shall be fixed for a date not earlier than ~~thirty (30)~~ 30 days nor later than ~~sixty (60)~~ 60 days after service of such notice.

(b) Unless the bank or trust company shall appear at the hearing ~~by a duly authorized representative, it, such bank or trust company~~ shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the *state banking* board shall find that any unsafe or unsound practice or violation specified in the notice of charges has been established, the *state banking* board may issue and serve upon the bank or trust company an order to cease and desist from any such practice or violation. Such order may, ~~by provisions which may be mandatory or otherwise, require the bank or trust company and its such bank's or trust company's~~ directors, officers, employees ~~and or~~ agents to cease and desist ~~from the same, and, further, or~~ to take affirmative action to correct the conditions resulting from any such practice or violation. A cease and desist order shall become effective at the time specified therein; and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified; ~~or terminated or set aside by action of by~~ the *state banking* board.

(c) Whenever the commissioner ~~shall determine finds~~ that ~~the a bank's or trust company's~~ unsafe or unsound practice ~~or practices or the violation or violations specified in the notice of charges served upon the bank or trust company, violation, or the continuation thereof, is likely to cause insolvency or, substantial dissipation of assets or earnings of the bank or trust company, or is likely to otherwise seriously prejudice the interests of its depositors, the commissioner may issue a temporary order requiring the bank or trust company to cease and desist from any such practice or practices or violation or violations. The order shall contain a notice of charges with a statement of the facts that forms the basis for a proposed temporary cease and desist order.~~ Such order shall be effective upon service ~~thereof upon~~ on the bank or trust company; and shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and until such time as the *state banking* board shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the bank or trust company, until the effective date of any such order.

Sec. 116. K.S.A. 9-1901 is hereby amended to read as follows: 9-1901. Any corporation *that is not insolvent or critically undercapitalized and otherwise* transacting business under ~~this act~~ the *state banking* code may be dissolved by the district court of the county in which its place of business is located, in the following manner: A verified petition shall be filed in the office of the clerk of said court, signed by the president or a majority of the board of directors, setting forth that stockholders representing two-thirds in amount of the stock of such association have adopted a resolution favoring such dissolution, and directing proceedings to be instituted for that purpose, a copy of which resolution shall set forth that all claims and demands against such association have been paid and discharged, and thereupon a notice shall be published for the time and in the manner prescribed by the law for service by publication. Such notice shall state the name of the court in which the petition has been filed, the substance

and purpose thereof, and that unless objections are filed thereto on or before a time to be stated, which shall not be less than forty-one days from the first publication, the relief prayed for will be granted:

~~—A copy of such notice shall be sent to the bank commissioner within ten days after the first publication thereof, and the commissioner shall, within thirty days thereafter, make a thorough examination of the affairs of such bank, and file a certified copy of the report with said petition. Any creditor or stockholder may, on or before the time fixed by the notice, and afterwards, if permitted by the court, file written objections to the dissolution of such corporation. The petition and objections thereto, if any, shall stand for hearing the same as a civil action, and if upon the hearing thereof the court shall be satisfied that the petition is true, and that there is no valid objection to the dissolution of such corporation, it shall render judgment dissolving the same its board of directors in accordance with K.S.A. 17-6801 et seq., and amendments thereto, provided the bank has completed a liquidation to the satisfaction of the commissioner pursuant to section 5, and amendments thereto.~~

Sec. 117. K.S.A. 9-1902 is hereby amended to read as follows: 9-1902. A bank or trust company shall be deemed to be insolvent when: ~~(1)~~ (a) The actual cash market value of ~~its a bank's or trust company's~~ assets is insufficient to pay ~~its such bank's or trust company's~~ creditor liabilities, except that for this purpose unconditional evidence of indebtedness of the United States of America may be valued, at the discretion of the commissioner, at par or cost whichever is the lesser; ~~(2)~~ or (b) when it is unable to meet the demands of its creditors in the usual and customary manner; ~~(3) when it shall fail to make good its reserve as required by this act.~~

Sec. 118. K.S.A. 9-1902a is hereby amended to read as follows: 9-1902a. A bank or trust company is critically undercapitalized when the ratio of its capital to total assets is equal to or less than 2.0%. For the purposes of this section, capital shall be the ~~sum~~ total of the institution's common stock, surplus, undivided profits, capital reserves, noncumulative perpetual preferred stock and outstanding cumulative perpetual preferred stock ~~(including related surplus), but intangibles, such as goodwill, shall not be included in the capital calculation.~~

Sec. 119. K.S.A. 9-1903 is hereby amended to read as follows: 9-1903. If it shall appear upon the examination of any bank or trust company or from any report made to the commissioner that any bank or trust company is:

(a) Critically undercapitalized, the commissioner may:

(1) *Enter an informal memorandum pursuant to section 3, and amendments thereto, to notify the bank or trust company of the unsafe and unsound condition and require the bank or trust company to correct the condition within the time prescribed by the commissioner; or*

(2) *take charge of such bank or trust company and all of its property and assets. If from such examination or reports it shall appear any bank or trust company is insolvent the commissioner shall take charge of such bank or trust company and all of its property and assets. In so doing In taking charge of a critically undercapitalized bank or trust company, the commissioner may:*

(A) *Appoint a special deputy commissioner to take charge temporarily of the affairs of such insolvent or critically undercapitalized the bank or trust company until a receiver is appointed. Such deputy shall qualify, give bond and receive compensation as determined by the commissioner, but such compensation shall be paid by the insolvent or critically undercapitalized bank or trust company or in case of the appointment of a receiver allowed by the court as costs in the case. After appointment, the special deputy shall continue to serve under the direction of the commissioner for such period of time as deemed reasonable and necessary by the commissioner before returning charge of the bank or trust company back to the board of directors of the institution or appointing a receiver. In no case shall any bank or trust company continue in the charge of a special deputy for a period exceeding nine months; or*

(B) *appoint a receiver if it shall appear at any time that the bank or trust company cannot sufficiently recapitalize, resume business or liquidate the bank's or trust company's indebtedness to the satisfaction of the depositors and creditors of such bank or trust company.*

(b) *Insolvent, the commissioner shall take charge of the bank or trust company and all property and assets of such bank or trust company. In taking charge of an insolvent bank or trust company, the commissioner shall:*

- (1) *Appoint a special deputy commissioner to take charge temporarily of the affairs of the bank or trust company; or*
- (2) *appoint a receiver if it shall appear at any time that the bank or trust company cannot sufficiently recapitalize, resume business or liquidate its indebtedness to the satisfaction of the depositors and creditors of such bank or trust company.*

Sec. 120. K.S.A. 9-1905 is hereby amended to read as follows: 9-1905. ~~When the commissioner shall take charge of any insolvent or critically undercapitalized bank or trust company pursuant to article 19 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, the commissioner shall ascertain its actual condition as soon as possible by making a thorough investigation into its affairs and condition, and if the commissioner shall be satisfied that such bank or trust company cannot sufficiently recapitalize, resume business or liquidate its indebtedness to the satisfaction of its depositors and creditors, then the commissioner forthwith shall appoint a receiver therefor and require the receiver to give such bond as the commissioner deems proper. (a) In the event the commissioner appoints a receiver for any bank or trust company, the commissioner shall appoint:~~

- (1) *The federal deposit insurance corporation; or*
- (2) *any individual, partnership, association, limited liability company, corporation or any other business entity which shall have accounting, regulatory, legal or other relevant experience in the field of banking or trust as shall be determined by the commissioner.*

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

(1) ~~The commissioner also shall fix receiver shall be entitled to reasonable compensation for the receiver but the same shall be subject to the approval of the district court of the county wherein such bank or trust company is located upon the application of any party in interest.~~

~~Any receiver shall be a resident of the state of Kansas and shall have had at least five years credit experience.~~

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

(c) *The bank or trust company shall have the right to petition for review of the commissioner's order taking charge, appointment of a special deputy or appointment of a receiver. Such review shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto. A petition for review shall be filed within 10 days of the commissioner's action. Notwithstanding any provision of law to the contrary, or by order of the court, review shall proceed as expeditiously as possible pursuant to the provisions of K.S.A. 77-601 et seq., and amendments thereto. Notwithstanding any provision of law to the contrary, the decision of the district court may be appealed only to the supreme court of Kansas. The time within which an appeal may be taken shall be 10 days from final disposition of the district court.*

Sec. 121. K.S.A. 9-1906 is hereby amended to read as follows: 9-1906. (a) ~~A receiver appointed pursuant to K.S.A. 9-1905, and amendments thereto, under the direction of the commissioner other than the federal deposit insurance corporation, shall take charge of any insolvent or critically undercapitalized bank or trust company and all of its assets and property, and liquidate the affairs and business thereof for the benefit of~~

its depositors, creditors and stockholders. The receiver may ~~sell or compound all bad and doubtful debts and~~ sell all the property of the bank or trust company upon such terms as the district court of the county where the bank or trust company is located shall approve. The receiver shall pay over all moneys received to the creditors and depositors of such bank or trust company ~~as ordered by the commissioner.~~

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

- (1) The costs and expenses of the receivership and real and personal property taxes assessed against the bank *or trust company* pursuant to applicable law;
- (2) claims which are secured or given priority by applicable law;
- (3) claims of unsecured depositors;
- (4) all other claims exclusive of claims on capital notes and debentures; *and*
- (5) claims on capital notes and debentures.

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

Sec. 122. K.S.A. 9-1907 is hereby amended to read as follows: 9-1907. The federal deposit insurance corporation or its successor, hereby is authorized and empowered to be and act without bond as receiver ~~or liquidator of any insolvent or critically undercapitalized of any~~ bank, the deposits in which are to any extent insured by such corporation, ~~and which bank shall have been closed. In the event of any such closing of any bank the commissioner may tender to the insurance corporation the appointment as receiver or liquidator of such bank, and. If the federal deposit insurance corporation, or its successor, accepts the appointment, then such the federal deposit insurance corporation, or its successor, shall have and possess succeed to all the rights, titles, powers and privileges and shall assume all the duties and requirements provided by the laws of this state with respect to a state receiver or liquidator, respectively, of a bank, its depositors and other creditors, and shall be subject to the jurisdiction of the district courts and supreme court of Kansas of the bank and of any stockholder, member, account holder, depositor, officer or director of the bank with respect to the bank.~~

Sec. 123. K.S.A. 9-1908 is hereby amended to read as follows: 9-1908. Whenever the federal deposit insurance corporation, or its successor, shall accept the appointment as receiver ~~or liquidator~~ for any bank the possession of and title to all of the assets, business, and property of every kind, ~~including real estate,~~ of such bank shall pass to and vest in ~~such the federal deposit insurance corporation, or its successor,~~ as receiver ~~or liquidator~~ without the execution of any instruments of assignment, endorsement, transfer or conveyance.

Sec. 124. K.S.A. 9-1909 is hereby amended to read as follows: 9-1909. All claims of depositors and other creditors must be filed with the receiver within one year after the date of the receiver's appointment, and if any claim is not so filed, then it shall be barred from participation in the estate and assets of any such bank or trust company.

Sec. 125. K.S.A. 9-1910 is hereby amended to read as follows: 9-1910. ~~The board of directors of any~~ *Upon the affirmative vote of 2/3 of the outstanding voting stock, the shareholders of a* bank or trust company may place its affairs and assets under the control of the commissioner by posting a notice in the following forms on its front door: "This bank is in the hands of the state bank commissioner." The posting of such notice or the taking possession and custody of any bank or trust company by the commissioner shall be sufficient to place all its assets and property of whatever nature in the possession of the commissioner, ~~and transfer all of its assets and property of whatever nature and any rights thereto to the possession and control of the commissioner and waive any right to the Kansas administrative procedure act, the Kansas judicial review act or any other lawful right to challenge the commissioner's authority without the execution of any instruments of assignment, endorsement, transfer or conveyance. Such action shall operate as a bar to any attachment proceedings.~~

Sec. 126. K.S.A. 9-1915 is hereby amended to read as follows: 9-1915.

It shall be unlawful for the president, director, managing officer, cashier or any other officer of any bank to ~~assent to the reception of deposits or the creation of any debt by any bank~~ *agree to accept deposits, in an amount that would create an excess above the federal deposit insurance corporation insured deposit amount*, after such person has knowledge of the fact that such bank is insolvent *or in failing circumstances*. It hereby is made the duty of every such officer or managing officer to examine into the affairs of every such bank and know its condition if possible. Upon failure to discharge such duty such person shall be held to have had knowledge of the insolvency of such bank or that it was in failing circumstances, for the purposes of ~~this act~~ *section*. Every person who shall violate the provisions of this section shall be responsible individually for such deposits so received ~~and all debts so contracted~~, except that any director or officer who may have paid more than such person's share of the liabilities mentioned in this section shall have the proper remedy at law against such other persons as shall not have paid their full share of such liabilities.

Sec. 127. K.S.A. 9-1916 is hereby amended to read as follows: 9-1916. In all actions brought for the recovery of any deposits received ~~or debt created~~, *in an amount that would create an excess above the federal deposit insurance corporation insured deposit amount*, while any bank was insolvent or in failing circumstances, all officers, agents, and directors of such bank may be joined as defendants or proceeded against severally. The fact that any bank was insolvent or in failing circumstances at the time of the reception of the deposit ~~charged to have been so received, or the creation of the debt charged to have been so created~~, shall be prima facie evidence of such knowledge ~~and assent to such deposit or creation of such debt~~ *in accepting the deposit* on the part of such officer, agent, or director so charged therewith. This liability may be enforced by and against executors and administrators of any deceased officer, director or agent.

Sec. 128. K.S.A. 9-2001 is hereby amended to read as follows: 9-2001. Every ~~banker~~, officer, employee, director or agent of any bank or trust company who shall neglect to perform any duty required by ~~this act~~ *the state banking code*, or who shall fail to conform to any lawful requirement made by the ~~bank~~ commissioner, *upon conviction* shall be guilty of a *class A, nonperson* misdemeanor, ~~and upon conviction shall be punished by a fine not to exceed \$1,000, or by imprisonment not to exceed one year, or by both fine and imprisonment.~~

Sec. 129. K.S.A. 9-2002 is hereby amended to read as follows: 9-2002. Every officer, director, agent ~~or clerk~~ *employee* of any bank or trust company doing business in the state of Kansas; who willfully and knowingly subscribes to or makes any false report or any false statement or entry in the books of such bank or trust company, or knowingly subscribes or exhibits any false writing ~~or, paper~~ *or electronic equivalent*, with the intent to deceive any person as to the condition of such bank or trust company, upon conviction shall be guilty of a severity level 8, nonperson felony.

Sec. 130. K.S.A. 2014 Supp. 9-2004 is hereby amended to read as follows: 9-2004. ~~(a)~~ Every officer, *director, agent* or employee of a bank or trust company required by ~~this act~~ *the state banking code* to take an oath or affirmation, who shall willfully swear or affirm falsely, shall be guilty of perjury, and upon conviction shall be punished as provided by K.S.A. 2014 Supp. 21-5903, and amendments thereto.

~~(b) (1) A violation of subsection (a) as provided in (b)(2) of K.S.A. 2014 Supp. 21-5903, and amendments thereto, is a severity level 7, nonperson felony.~~

~~(2) A violation of subsection (a) as provided in (b)(1) of K.S.A. 2014 Supp. 21-5903, and amendments thereto, is a severity level 9, nonperson felony.~~

Sec. 131. K.S.A. 9-2005 is hereby amended to read as follows: 9-2005. Any bank commissioner or deputy bank commissioner who shall willfully neglect to perform any duty provided for by ~~this act~~ *the state banking code*, or who shall knowingly and willfully permit the violation of any of the provisions of ~~this act~~ *the state banking code* for a period of ~~ninety~~ 90 days; by any bank *or trust company* doing business under ~~this act~~ *the state banking code*, or who shall knowingly or willfully make any false statement concerning any bank *or trust company*; or who shall be guilty of any

misconduct or corruption in office, *upon conviction* shall be deemed guilty of a *class A, nonperson* misdemeanor, ~~and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment, in the discretion of the court, and in addition thereto~~ *and* shall be removed from office by the governor.

Sec. 132. K.S.A. 9-2006 is hereby amended to read as follows: 9-2006. Any officer, *director, employee or agent* of any bank whose authority to transact a banking business has been revoked ~~as herein provided pursuant to the provisions of the state banking code~~, who shall receive or cause to be received any deposit of whatever nature after such revocation, ~~upon conviction thereof, shall be subject to a fine of not less than \$300 nor more than \$1,000, and by imprisonment for not less than six months nor more than one year shall be guilty of a severity level 8, nonperson felony.~~

Sec. 133. K.S.A. 9-2007 is hereby amended to read as follows: 9-2007. Any receiver of an insolvent bank or trust company, *other than the federal deposit insurance corporation*, who fails to comply with the provisions of subsection (a) of K.S.A. 9-1912, ~~and amendments thereto or who violates any of the provisions of this act relating to the examination of banks or trust companies, shall be subject to the same penalties provided for officers or employees of banks or trust companies~~ *the state banking code*, *upon conviction shall be guilty of a class A, nonperson misdemeanor.*

Sec. 134. K.S.A. 9-2008 is hereby amended to read as follows: 9-2008. It shall be unlawful for any officer, ~~clerk~~ *director, employee or agent* of any bank doing business ~~under this act pursuant to the provisions of the state banking code~~ to certify any check, draft or order drawn upon the bank unless the person, firm or corporation drawing such check, draft or order has on deposit with the bank, at the time such check, draft or order is certified, an amount of money equal to the amount specified in such check, draft or order. Any check, draft or order so certified by the ~~duly~~ authorized officer, *director, employee or agent* shall be a good and valid obligation against such bank, ~~but~~. Any officer, ~~clerk~~ *director, employee or agent* of any bank violating the provisions of this section, *upon conviction* shall be deemed guilty of a *class A, nonperson* misdemeanor, ~~and upon conviction shall be punished as provided in K.S.A. 9-2007.~~

Sec. 135. K.S.A. 9-2010 is hereby amended to read as follows: 9-2010. No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes; or United States treasury notes, gold or silver certificates; or currency; or other notes, bills, checks; or drafts, when such bank is insolvent, ~~and~~. Any officer, ~~cashier, manager, member, partner or managing partner~~ *employee or agent* of any bank, who shall knowingly violate the provisions of this section or be accessory to or permit or connive at the receiving or accepting on deposit of any such deposit, ~~shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment in the custody of the secretary of corrections not less than one year nor more than five years, or by both such fine and imprisonment upon conviction shall be guilty of a severity level 8, nonperson felony.~~

Sec. 136. K.S.A. 9-2011 is hereby amended to read as follows: 9-2011. It shall be unlawful for any individual, firm or corporation to advertise, publish or otherwise promulgate that they are engaged in the banking business or trust business; without first having obtained authority from the ~~bank~~ commissioner ~~as herein provided~~. Any such individual or member of any such firm or officer of any such corporation violating this section ~~shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$5,000, upon conviction shall be guilty of a class A, nonperson misdemeanor.~~

Sec. 137. K.S.A. 9-2012 is hereby amended to read as follows: 9-2012. ~~Every president, director, cashier, assistant cashier, teller, clerk, officer or agent of any bank or trust company who embezzles, abstracts or willfully misapplies any of the moneys, funds, securities or credits of the bank or trust company, or who issues or puts~~ (a) *It shall be unlawful for any shareholder, director, officer, employee or agent of any bank or trust company, with the intent to injure, defraud or deceive a bank or trust company, any agent appointed to examine the affairs of such bank or trust*

company, the commissioner or the commissioner's staff or any other person to:

(1) Issue or put forth any certificate of deposit, ~~draws~~ draw any draft or bill of exchange, ~~makes~~ make any acceptance, ~~assigns~~ assign any note, bond, draft, or bill of exchange, ~~or who makes~~; or

(2) to make use of the name of the bank or trust company in any manner, ~~with intent in either case to injure or defraud the bank or trust company or any individual, person, partnership, company or corporation, or to deceive any officer of the bank or trust company or any agent appointed to examine the affairs of the bank or trust company, and any person who with like intent aids or abets any officer, clerk or agent in violation of this act.~~

(b) It shall be unlawful for any person to aid or abet any shareholder, director, officer, employee or agent in violation of this section. Any person violating the provisions of this section, upon conviction shall be guilty of a severity level 7, nonperson felony.

Sec. 138. K.S.A. 9-2013 is hereby amended to read as follows: 9-2013.

(a) Except as provided in subsection (c), it shall be unlawful for: (1) Any person or corporation to ~~corruptly~~ give, offer or promise anything of value to any person, with the intent to influence or reward an officer, director, employee, agent or attorney of any state bank or trust company in connection with any business or transaction of such bank or trust company; or

(2) any shareholder, officer, director, employee, agent or attorney of any state bank or trust company to ~~corruptly~~ solicit or demand for the benefit of any person; or to ~~corruptly~~ accept or agree to accept anything of value from any person intending to influence or reward in connection with any business or transaction of such bank or trust company.

(b) Any person or corporation violating the provisions of subsection (a), upon conviction, shall be guilty of a class A, nonperson misdemeanor.

(c) This section shall not apply to bona fide salary, wages, fees or other compensation paid; or expenses paid or reimbursed in the ~~usual~~ ordinary course of business.

Sec. 139. K.S.A. 9-2014 is hereby amended to read as follows: 9-2014.

It shall be the duty of the ~~bank~~ commissioner or any of the ~~deputies of the commissioner~~, to inform the county or district attorney of the county in which the bank or trust company is located; of any violation of any of the provisions of ~~this act~~ the state banking code, which constitute a misdemeanor or felony, by the shareholders, officers, directors, ~~owners~~ agents or employees of any bank or trust company, which shall come to the notice of the ~~bank~~ commissioner or the commissioner's deputies, and upon receipt of such information the county or district attorney may institute proceedings to enforce the provisions of this act.

Sec. 140. K.S.A. 9-2016 is hereby amended to read as follows: 9-2016.

It shall be unlawful to transact a banking business or trust business without having first received a certificate from the commissioner. Any person violating the provisions of this section, either individually or as an interested party, in any association or corporation; upon conviction shall be guilty of a class B, nonperson misdemeanor, ~~and on conviction shall be fined in a sum of not less than \$300 nor more than \$1,000 or by imprisonment for not less than 30 days nor more than one year, or by both such fine and imprisonment.~~

Sec. 141. K.S.A. 9-2018 is hereby amended to read as follows: 9-2018.

If any provision of ~~this act~~ the state banking code, or the application thereof, to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ~~act~~ which state banking code that can be given effect without the invalid provision or application, and to this end the provisions of ~~this act~~ the state banking code are declared to be severable.

Sec. 142. K.S.A. 9-2101 is hereby amended to read as follows: 9-2101.

Any trust company authorized to receive deposits under K.S.A. 17-2025, prior to its repeal by this act, shall be issued a certificate of authority by the ~~state bank~~ commissioner upon surrendering such trust company's charter and complying with the provisions of K.S.A. 9-804, and amendments thereto, and shall thereafter be subject to all of the requirements, limitations and terms of the state banking code ~~of Kansas~~.

Sec. 143. K.S.A. 9-2102 is hereby amended to read as follows: 9-2102. ~~(a) All trust companies, regardless of when incorporated after the effective date of this act, shall be organized and governed pursuant to this act the state banking code.~~

~~(b) All trust companies incorporated before the effective date of this act, upon the effective date of this act, shall be subject to and governed by the provisions of this act.~~

Sec. 144. K.S.A. 9-2103 is hereby amended to read as follows: 9-2103. (a) A trust company may exercise all powers necessary or incidental to carrying on a trust business, including, without limitation, all powers conferred upon a business corporation by the Kansas corporation code of 1972, ~~and amendments thereto~~, and also may exercise the following powers:

(1) To receive for safekeeping personal property of every description;
 (2) to accept and execute any trust agreement and perform any trustee duties as required by such trust agreement;

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

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

~~(5) to act as agent or attorney in fact in any agreed upon capacity;~~

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

~~(7)-(6) to be a conservator for any minor, incapacitated person or trustee for any convict under the appointment of any court of competent jurisdiction;~~

~~(8) if the trust company was organized and existing prior to 1930, to loan money upon real estate, chattel, collateral or personal security, to execute and issue its notes, bonds or debentures payable at a future date, and to pledge any of its securities not in excess of 105% of the amount of such notes, bonds or debentures thus issued, except that no holder of securities in excess of the amount provided herein shall acquire any title or claim to such excess; to buy and sell all kinds of government, state, county, municipal and corporation bonds, and all kinds of negotiable and nonnegotiable paper, securities, and stocks except that:~~

~~(A) The total investment of any such trust company in bank stock shall at no time exceed ¼ its paid-in capital; and~~

~~(B) no trust company shall loan money upon or become the purchaser of its own stock, unless such purchase shall be necessary in the collection of, or to prevent loss upon, a debt previously contracted in good faith; whereupon the trust company may become the purchaser at public or private sale, but any stock so purchased shall be disposed of within six months after such purchase and shall not be included as a part of the assets of such company after the expiration of six months from the date of purchase;~~

~~(9)-(7) to receive money in trust for investment in real or personal property of every kind and nature and to reinvest the proceeds thereof;~~

~~(10)-(8) to act in any fiduciary capacity and to perform any act as a fiduciary which a Kansas state bank may perform under any provision of the banking or insurance laws of this state, including, without limitation, acting as a successor fiduciary to any bank upon liquidation of its trust department through the transfer of its fiduciary assets pursuant to K.S.A. 9-1604, and amendments thereto, which liquidation may be effected in the manner provided in K.S.A. 9-2107, and amendments thereto, or otherwise;~~

~~(11)-(9) to act as either an originating trustee or as a contracting trustee pursuant to K.S.A. 9-2107, and amendments thereto;~~

~~(12)-(10) to exercise any other power expressly conferred upon trust companies by any other provision of the laws of this state;~~

~~(13)-(11) to buy and sell foreign or domestic exchange, gold, silver, coin or bullion; and~~

(12) to perform or purchase trust services for, or from, a bank or service corporation through a trust service agency agreement, provided

that the commissioner is notified 30 days after contracting for the service and such notification includes the trust services provided, the name of the servicer and the date the service will commence.

~~(14)(b)~~ Pursuant to K.S.A. 9-1713, and amendments thereto, the ~~state bank~~ commissioner may adopt rules and regulations clarifying any of the above enumerated powers and duties extended to trust companies.

~~(b)(c)~~ A trust company may be formed for a limited purpose to exercise any one or more of the enumerated powers in subsection (a). The articles of incorporation of such a trust company shall contain a list of the specific powers that the trust company chooses and is authorized to exercise.

Sec. 145. K.S.A. 9-2104 is hereby amended to read as follows: 9-2104. (a) No executor, administrator, conservator or trustee holding trust company stock, ~~and no shall be personally subject to any liability as stockholders in such trust company.~~

(b) No person holding trust company stock as collateral security shall be personally subject to any liability as stockholders in such trust company, ~~but~~

(c) ~~The person owning the stock or the person pledging such stock shall be considered as holding same, and shall be deemed the person liable as a stockholder accordingly in the trust company.~~

(d) Any executor, administrator, conservator or trustee holding trust company stock shall be liable ~~in like manner as the testator or intestate or the conservatee or person interested in such trust fund would have been if such person had been living and competent to act and hold the same stock in such person's own name in the normal course of acting and carrying out the fiduciary duties of an executor, administrator, conservator or trustee.~~

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

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

Sec. 146. K.S.A. 2014 Supp. 9-2107 is hereby amended to read as follows: 9-2107. (a) As used in this section:

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

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

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

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

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

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

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

(d) The agreement may authorize the contracting trustee:

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

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

(e) Any contracting trustee may enter into an agreement with a financial institution providing that the contracting trustee may establish a trust service desk as authorized by subsection (d) in the offices of such financial institution and which provides such financial institution, on a disclosed basis to customers, may act as the agent of contracting trustee for purposes of providing administrative services and advertising incident to the fiduciary services to be performed by the contracting trustee.

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

(1) The agreement;

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

(3) all other required regulatory approvals;

(4) ~~an affidavit of publication of notice of intent to file the application with the commissioner proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. Publication of the notice shall be on the same day for two consecutive weeks in the official The notice shall be published in a newspaper of the city or county general circulation in the county where the principal office of the originating trustee or financial institution is located. The notice shall be in the form prescribed by the commissioner and shall contain the name of the applicant contracting trustee; and the originating trustee or financial institution, the proposed date of filing of the application with the commissioner; a solicitation for written comments concerning the application, and a notice of the public's right to file a written request for a public hearing for the purpose of presenting oral or written evidence regarding the proposed agreement. All comments and requests for public hearing shall be filed with the commissioner on or before the 30th day after the date the application is filed. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication; and~~

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

shall render the agreement null and void as to the party not receiving the notice of substitution.

(g) A contracting trustee making application to the commissioner for approval of any agreement pursuant to this section shall pay to the commissioner a fee, in an amount established by rules and regulations of the commissioner adopted pursuant to K.S.A. 9-1713 section 12, and amendments thereto, to defray the expenses of the commissioner or designee in the examination and investigation of the application. The commissioner shall remit all amounts moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a separate account in the state treasury for each application *the bank investigation fund*. The money moneys in each such account *the bank investigation fund* shall be used to pay the expenses of the commissioner, or designee, in the examination and investigation of the application to which it relates such applications and any unused balance shall be transferred to the bank commissioner fee fund.

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

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

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

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

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

(i) ~~If no written request for public hearing is filed, The commissioner shall render approval or disapproval of the application within 60 90 days of the date upon which the application was filed receiving a complete application.~~

(j) ~~If a written request for public hearing is filed, the commissioner shall hold within 30 days of the close of the comment period, a public hearing in a location determined by the commissioner. Notice of the time, date and place of such hearing shall be published by the applicant in a newspaper of general circulation in the county where the originating trustee or financial institution is located, not less than 10 nor more than 30 days prior to the date of the hearing, and an affidavit of publication shall be filed with the commissioner. At any such hearing, all interested persons may present written and oral evidence to the commissioner in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner. Within 14 days after the public hearing, the commissioner shall approve or disapprove the application after consideration of the application and evidence gathered during the commissioner's investigation.~~

~~(k) The commissioner may extend the period for approval or disapproval if the commissioner determines that any information required by this section has not been furnished, any material information submitted is inaccurate or additional investigation is required. The commissioner, prior to expiration of the application period provided for by this section, shall give written notice to each party to the agreement of the commissioner's intent to extend the period which shall include a specific date for expiration of the extension period. If any information remains incomplete or inaccurate upon the expiration of the extension period the application shall be disapproved.~~

~~(l) Within 15 days of the date of the commissioner's approval or denial, the applicant or any individual or corporation who filed a request for and presented evidence at the public hearing shall have the right to appeal in writing to the state banking board the commissioner's determination by filing a notice of appeal with the commissioner. The state banking board shall fix a date for hearing, which hearing shall be held within 45~~

days after such notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its decision affirming or rescinding the determination of the commissioner. Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. Any party which files an appeal to the state banking board of the commissioner's determination shall pay to the commissioner a fee in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's expenses associated with the conduct of the appeal. *Upon service of an order denying an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act before the state banking board. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.*

~~(m)~~(k) When the commissioner determines that any contracting trustee domiciled in this state has entered into a contracting agreement in violation of the laws governing the operation of such contracting trustee, the commissioner shall give written notice to the contracting trustee and the originating trustee or financial institution of such determination. Within 15 days after receipt of such notification, the contracting trustee and originating trustee or financial institution shall have the right to appeal in writing to the state banking board the commissioner's determination. The board shall fix a date for hearing, which shall be held within 45 days after the date of the appeal and shall be conducted in accordance with the Kansas administrative procedure act. At such hearing the board shall hear all matters relevant to the commissioner's determination and shall approve or disapprove the commissioner's determination. The decision of the board shall be final and conclusive. If the contracting trustee does not appeal to the board from the commissioner's determination or if an appeal is made and the commissioner's determination is upheld by the board, the commissioner may proceed as provided in K.S.A. 9-1714, and amendments thereto, until such time as the commissioner determines the contracting trustee, originating trustee and financial institution are in full compliance with the laws governing the operation of a contracting trustee and originating trustee or financial institution *may take such action as available under K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy such violation.*

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

Sec. 147. K.S.A. 2014 Supp. 9-2108 is hereby amended to read as follows: 9-2108. It is unlawful for any trust company to establish or operate a trust service office or relocate an existing trust service office except as provided ~~in this act~~ *herein.*

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

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

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

(1) ~~The~~ *A certified copy of the* written action taken by the board of directors of the trust company approving the establishment or operation of the proposed trust service office or the proposed relocation of the trust service office;

(2) all other required regulatory approvals; ~~and~~

(3) ~~an affidavit of publication of notice of intent to file an application to establish or operate a trust service office or relocate an existing trust service office~~ *proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. Publication of the notice shall be on the same day for two consecutive weeks in the official newspaper of the city general circulation where the proposed trust service office is to be located. The notice shall be in the form prescribed by the commissioner and shall contain the name of the applicant, the location of the proposed trust service office, the proposed date of filing of the application with the commissioner; and a solicitation for written comments concerning the application and a notice of the public's right to file a written request for a public hearing for the purpose of presenting oral or written evidence regarding the proposed trust service office. All comments and requests for public hearing shall be filed with the commissioner on or before the 30th day after the date the application is filed. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication; and*

(4) *the application shall include the name selected for the proposed trust service office. The name selected for the proposed trust service office shall not be the name of any other trust company or trust service office doing business in the state of Kansas, nor shall the name selected be required to contain the name of the applicant trust company. If the name selected for the proposed trust service office does not contain the name of the applicant trust company, the trust service office shall provide in the public lobby of such trust service office, a public notice that it is a trust service office of the applicant trust company. Any trust company may request exemption from the commissioner from the provisions of this subsection.*

(d) A trust company making application to the commissioner for approval of a trust service office under this section shall pay to the commissioner a fee, in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713 section 12, and amendments thereto, to defray the expenses of the commissioner or designee in the examination and investigation of the application. The commissioner shall remit all ~~amounts~~ *moneys* received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a separate account in the state treasury for each application ~~the bank investigation fund~~. The moneys in ~~each such account~~ *the bank investigation fund* shall be used to pay the expenses of the commissioner or designee in the examination and investigation of the application to which ~~it relates such applications~~ and any unused balance shall be transferred to the bank commissioner fee fund.

(e) Upon ~~the~~ *the* filing of ~~any such~~ *a complete* application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation ~~concerning~~. *If the commissioner finds any of the following matters unfavorably, the commissioner may deny the application:*

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

(2) the applicant trust company's financial history and condition in-

cluding the character, qualifications and experience of the officers employed by the trust company; and

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

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

~~(g) If a written request for public hearing is filed, the commissioner shall hold a public hearing in a location determined by the commissioner within 30 days of the close of the comment period. Notice of the time, date and place of the hearing shall be published by the applicant in a newspaper of general circulation in the county where the proposed trust service office is to be located, not less than 10 or more than 30 days prior to the date of the hearing, and an affidavit of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the commissioner in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner. Within 14 days after the public hearing, the commissioner shall approve or disapprove the application after consideration of the application and evidence gathered during the commissioner's investigation.~~

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

~~(i) Within 15 days of the date after the commissioner's approval or disapproval of the application, the applicant or any individual or corporation who filed a request for and presented evidence at the public hearing shall have the right to appeal in writing to the state banking board the commissioner's determination, by filing a notice of appeal with the commissioner. The state banking board shall fix a date for a hearing, which hearing shall be held within 45 days from the date such notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its decision affirming or rescinding the determination of the commissioner. Action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. Any party which files an appeal to the state banking board of the commissioner's determination shall pay to the commissioner a fee in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's expenses associated with the conduct of the appeal. Upon service of an order denying an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act before the state banking 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.~~

~~(j)(g) When the commissioner determines that a trust company domiciled in this state has established or is operating a trust service office in violation of the laws governing the operation of such trust company, the commissioner shall give written notice to the trust company of such determination. Within 15 days after receipt of such notification, the trust company may appeal in writing to the state banking board the commissioner's determination. The board shall fix a date for hearing, which hearing shall be held within 45 days from the date of such appeal and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. At such hearing the board shall hear all matters relevant to the commissioner's determination and shall approve or dis-~~

~~approve the commissioner's determination, and the decision of the board shall be final and conclusive. If the trust company does not appeal to the state banking board from the commissioner's determination or if an appeal is made and the commissioner's determination is upheld by the board, the commissioner may proceed as provided in K.S.A. 9-1714, and amendments thereto, until such time as the commissioner determines the trust company is in full compliance with the laws governing the operation of a trust service office may take such action as available under K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy such violation.~~

Sec. 148. K.S.A. 2014 Supp. 9-2111 is hereby amended to read as follows: 9-2111. (a) Except as provided in K.S.A. 9-2107, and amendments thereto, no trust company, trust department of a bank, corporation or other business entity, the home office of which is located outside the state of Kansas, shall establish or operate a trust facility within the state of Kansas, unless the laws of the state where the home office of the non-resident trust company, trust department of a bank, corporation or other business entity is located, reciprocally authorize a Kansas chartered trust company, trust department of a bank, corporation or other business entity to establish or operate a trust facility within that state.

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

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

(d) No Kansas bank with a trust department shall establish an out-of-state trust facility until an application has been filed with the commissioner and approval has been received. An application filed pursuant to this section shall be subject to the provisions in K.S.A. ~~9-1135~~ 9-1111, and amendments thereto.

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

(f) *Any Kansas trust company or Kansas bank making application to the commissioner pursuant to subsection (c) or (d) shall pay to the commissioner a fee to be established pursuant to section 12, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.*

Sec. 149. K.S.A. 2014 Supp. 44-314 is hereby amended to read as follows: 44-314. (a) Every employer shall pay all wages due to the employees of the employer at least once during each calendar month, on regular paydays designated in advance by the employer.

(b) The employer may designate the method by which employees receive wages, provided all wages shall be paid by one or more of the following methods:

- (1) In lawful money of the United States;
- (2) by check or draft which is negotiable in the community wherein the place of employment is located;
- (3) by electronic fund transfer or deposit to an automated clearing-house member financial institution account designated by the employee; or
- (4) by payroll card.

(c) Any employer that elects to pay wages only by a method authorized in subsection (b)(3) shall offer an alternative payment method as a

default option for employees that fail to designate a financial institution account for electronic fund transfer or deposit.

(d) Any employer that elects to pay wages using a payroll card as authorized in subsection (b)(4) shall allow employees at least one means of fund access withdrawal per pay period at no cost to the employee for an amount up to and including the total amount of the employee's net wages, as stated on the employee's earnings statement.

(e) Not less than 30 days prior to implementing a payroll program using only the methods authorized in subsection (b)(3) or (b)(4), an employer shall either:

(1) Conduct one or more employee forums to educate employees regarding the use of a direct deposit or payroll card program offered by the employer; or

(2) distribute educational information to employees about direct deposits or payroll cards as they may be used under the payroll card program offered by the employer.

(f) (1) Employers shall retain no interest in wages paid by electronic funds transferred to an employee's payroll card account, other than the right to correct inadvertent overpayments in accordance with the rules governing direct deposit.

(2) An employer may not charge an employee initiation, loading or other participation fees to receive wages payable in an electronic fund transfer to a payroll card account, with the exception of the cost required to replace a lost, stolen or damaged payroll card.

(g) As used in this section:

(1) "Payroll card" means a card, issued to an employee by an employer, a bank or other entity on behalf of an employer, onto which an employee's net wages are loaded on regular paydays from a payroll card account and made accessible to an employee. ~~A payroll card is a machine readable instrument for purposes of K.S.A. 9-1111d, and amendments thereto.~~

(2) "Payroll card issuer" means an employer, a bank or other entity that issues a payroll card to an employee under an employer payroll card program.

(3) "Payroll card account" means an account into which an employer deposits each participating employee's net wages on regular paydays through an electronic fund transfer.

(h) The end of the pay period for which payment is made on a regular payday shall be not more than 15 days before such regular payday unless a variance in such requirement is authorized by state or federal law.

Sec. 150. K.S.A. 2014 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the Kansas department for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(c) *Aid to families with dependent children; assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving aid to families with dependent children, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(d) *Eligibility requirements for general assistance, the cost of which is not shared by the federal government.* (1) General assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d).

(A) To qualify for general assistance in any form a needy person must have insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must

be a citizen of the United States or an alien lawfully admitted to the United States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d), but who do not meet the criteria prescribed by rules and regulations of the secretary relating to inability to engage in employment or are not a member of a family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this subsection (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to ~~subsection (c) of K.S.A. 16-303(c)~~, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such des-

ignation will cause the full value of the property to be considered an available resource to the applicant or recipient. Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, unless the legislature expressly consents to, and approves of, the expansion of medicaid services by an act of the legislature.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, “public assistance” includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care

is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.*

(1) (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in on behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(B) Notwithstanding the provisions of subparagraph (A), the secretary of health and environment, or the secretary's designee, is hereby authorized to and shall exercise any of the powers specified in subparagraph (A) in relation to performance of such secretary's duties pertaining to medical subrogation, estate recovery or any other duties assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is (A) a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both, and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, ~~9-1216~~, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection (g). The secretary of health

and environment is authorized to enforce each claim provided for under this subsection (g). The secretary of health and environment shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary of health and environment from claims under this subsection (g) shall be deposited in the social welfare fund. The secretary of health and environment may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection (g).

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the

secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

(A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary of health and environment or the secretary's designee;

(B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or

(C) the value of the real property is consumed by the lien, at which time the secretary of health and environment or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(9) All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this subsection shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment until revised, amended, revoked or nullified pursuant to law.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2014 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall

remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations which penalty shall progress to ineligibility for the family after three months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

(1) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on and before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be

required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for

children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2014 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2014 Supp. 21-5701, and amendments thereto.

Sec. 151. K.S.A. 9-514, 9-515, 9-516, 9-517, 9-518, 9-519, 9-520, 9-523, 9-536, 9-538, 9-539, 9-542, 9-701, 9-702, 9-703, 9-801, 9-802, 9-803, 9-804, 9-806, 9-807, 9-808, 9-809, 9-810, 9-811, 9-812, 9-813, 9-901a, 9-902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-909, 9-910, 9-911, 9-912, 9-1101a, 9-1101b, 9-1102, 9-1103, 9-1105, 9-1106, 9-1107, 9-1108, 9-1109, 9-1110, 9-1111b, 9-1111d, 9-1112, 9-1113, 9-1116, 9-1119, 9-1122, 9-1123, 9-1124, 9-1125, 9-1127a, 9-1127b, 9-1127c, 9-1130, 9-1132, 9-1133, 9-1137, 9-1138, 9-1201, 9-1204, 9-1205, 9-1207, 9-1213, 9-1214, 9-1301, 9-1301a, 9-1304, 9-1403, 9-1405, 9-1501, 9-1502, 9-1503, 9-1504, 9-1505, 9-1506, 9-1507, 9-1602, 9-1603, 9-1604, 9-1605, 9-1606, 9-1607, 9-1608, 9-1609, 9-1610, 9-1611, 9-1612, 9-1701, 9-1705, 9-1708, 9-1709, 9-1710, 9-1711, 9-1712, 9-1714, 9-1715, 9-1716, 9-1717, 9-1718, 9-1719, 9-1720, 9-1723, 9-1724, 9-1802, 9-1803, 9-1807, 9-1808, 9-1901, 9-1902, 9-1902a, 9-1903, 9-1904, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1912, 9-1914, 9-1914a, 9-1915, 9-1916, 9-2001, 9-2002, 9-2003, 9-2005, 9-2006, 9-2007, 9-2008, 9-2009, 9-2010, 9-2011, 9-2012, 9-2013, 9-2014, 9-2015, 9-2016, 9-2017, 9-2018, 9-2101, 9-2102, 9-2103, 9-2104 and 9-2105 and K.S.A. 2014 Supp. 9-532, 9-533, 9-534, 9-535, 9-805, 9-1101, 9-1104, 9-1111, 9-1114, 9-1118, 9-1135, 9-1139, 9-1140, 9-1215, 9-1216, 9-1303, 9-1401, 9-1402, 9-1407, 9-1408, 9-1601, 9-1702, 9-1703, 9-1704, 9-1706, 9-1707, 9-1713, 9-1721, 9-1722, 9-1801, 9-1804, 9-1805, 9-2004, 9-2106, 9-2107, 9-2108, 9-2111, 39-709 and 44-314 are hereby repealed.

Sec. 152. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.