

## HOUSE BILL No. 2146

By Committee on Financial Institutions

1-24

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AN ACT relating to banks and banking; concerning general powers thereof; amending K.S.A. 2000 Supp. 9-1101 and repealing the existing section.

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

Section 1. K.S.A. 2000 Supp. 9-1101 is hereby amended to read as follows: 9-1101. 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 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. The state bank commissioner, with approval of the state banking board, may by 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, gold, silver, foreign coin, bullion, commercial paper, bills of exchange, notes and bonds;

(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

1 to the loan limitations contained in this act. Every real estate loan shall  
2 be secured by a mortgage or other instrument constituting a lien, or the  
3 full equivalent thereof, upon the real estate securing the loan, according  
4 to any lawful or well recognized practice, which is best suited to the  
5 transaction. The mortgage may secure future advances. The lien of such  
6 mortgage shall attach upon its execution and have priority from time of  
7 recording as to all advances made thereunder until such mortgage is re-  
8 leased of record. The lien of such mortgage shall not exceed at any one  
9 time the maximum amount stated in the mortgage;

10 (5) to discount and negotiate bills of exchange, negotiable notes and  
11 notes not negotiable;

12 (6) to buy and sell investment securities which are evidences of in-  
13 debtedness. The buying and selling of investment securities shall be lim-  
14 ited to buying and selling without recourse marketable obligations evi-  
15 dencing indebtedness of any person, copartnership, association,  
16 corporation, or state or federal agency, including revenue bonds issued  
17 pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory  
18 board in the form of bonds, notes or debentures or both, commonly  
19 known as investment securities, under such further definition of the term  
20 "investment securities" as prescribed by the board, but the total amount  
21 of such investment securities of any one obligor or maker held by such  
22 bank shall at no time exceed 15% of the capital stock paid in and unim-  
23 paired and the unimpaired surplus fund of such bank except that this  
24 limit shall not apply to obligations of the United States government or  
25 any agency thereof. If the obligor is a state agency including any agency  
26 issuing revenue bonds pursuant to K.S.A. 76-6a15, and amendments  
27 thereto, or the state armory board, the total amount of such investment  
28 securities shall at no time exceed 25% of the capital stock paid in and  
29 unimpaired and the unimpaired surplus fund of such bank;

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

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

43 (9) to subscribe to, buy and own stock in any agricultural credit cor-

1 poration or livestock loan company, or its affiliate, organized pursuant to  
2 the provisions of the laws of the United States providing for the infor-  
3 mation and operation of agricultural credit corporations and livestock loan  
4 companies, in an amount not exceeding either the undivided profits or  
5 10% of the capital stock and surplus and undivided profits from such  
6 bank, whichever is greater;

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

11 (11) to buy, hold, and sell any type of investment securities not enu-  
12 merated in this section with approval of the commissioner and upon such  
13 conditions and under such regulations as are prescribed by the state bank-  
14 ing board;

15 (12) to act as escrow agent;

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

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

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

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

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

39 (18) to engage in financial future contracts on United States govern-  
40 ment and agency securities subject to such rules and regulations as the  
41 state bank commissioner may prescribe pursuant to K.S.A. 9-1713, and  
42 amendments thereto, to promote safe and sound banking practices;

43 (19) to subscribe to, buy and own stock in a state or federally char-

1 tered bankers' bank or a one bank holding company which owns or con-  
2 trols such a bankers' bank, except no bank's investment in such stock shall  
3 exceed 10% of its capital stock, surplus and undivided profits;

4 (20) subject to such rules and regulations as the state bank commis-  
5 sioner may adopt pursuant to K.S.A. 9-1713, and amendments thereto,  
6 to promote safe and sound banking practices, upon recorded prior ap-  
7 proval by the board of directors of the initial investment in a specific  
8 company and pursuant to an investment policy approved by the board of  
9 directors which specifically provides for such investments to buy, hold  
10 and sell shares of an open-end investment company registered with the  
11 federal securities and exchange commission under the federal investment  
12 company act of 1940 and the federal securities act of 1933 and of a pri-  
13 vately offered company sponsored by an affiliated commercial bank, the  
14 shares of which are purchased and sold at par and the assets of which  
15 consist solely of securities which may be purchased by the bank for its  
16 own account. Such shares may be purchased without limit if the assets of  
17 the company consist solely of and are limited to obligations that are eli-  
18 gible for purchase by the bank without limit. If the assets of the company  
19 include securities which may be purchased by the bank subject to limita-  
20 tion, such shares may be purchased subject to the limitation applicable  
21 to purchase by the bank of such securities;

22 (21) subject to the prior approval of the state bank commissioner and  
23 the state banking board and subject to such rules and regulations as are  
24 adopted by the state bank commissioner pursuant to K.S.A. 9-1713, and  
25 amendments thereto, to promote safe and sound banking practices, a  
26 bank may establish a subsidiary which engages in the following securities  
27 activities: (a) selling or distributing stocks, bonds, debentures, notes, mu-  
28 tual funds and other securities, (b) issuing and underwriting municipal  
29 bonds, (c) organizing, sponsoring and operating mutual funds, (d) acting  
30 as a securities broker-dealer;

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

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

43 (24) to purchase and hold an interest in life insurance policies on the

1 life of its executive officers and directors, and to purchase life insurance  
2 policies for the sole purpose of providing employee deferred compensa-  
3 tion and benefit plans subject to the limitations listed herein. If the bank  
4 has the authority to direct the investments of the cash surrender value of  
5 the policy, those investments shall be limited solely to assets which may  
6 be directly purchased by the bank for its own account. The limitations  
7 set forth in paragraphs (a) and (b) of this subsection do not apply to any  
8 such life insurance policies in place before July 1, 1993. Funding for the  
9 payment of employee compensation and benefit plans as well as the ben-  
10 efits derived may be made or split in a joint manner between the bank,  
11 employee or bank holding company as in "split dollar" or other insurance  
12 plans:

13 (a) Life insurance purchased and held on the life of executive officers  
14 and directors are subject to the following limitations:

15 (i) The cash surrender value of any life insurance policy on an execu-  
16 tive officer or director underwritten by any one life insurance company  
17 cannot at any time exceed 15% of the bank's capital stock, surplus, un-  
18 divided profits, loan loss reserve, capital notes and debentures and reserve  
19 for contingency, unless the bank has obtained the prior approval of the  
20 state bank commissioner;

21 (ii) the cash surrender value of life insurance policies on executive  
22 officers or directors, in the aggregate from all companies, cannot at any  
23 time exceed 25% of the bank's capital stock, surplus, undivided profits,  
24 loan loss reserve, capital notes and debentures and reserve for contin-  
25 gency, unless the bank has obtained the prior approval of the state bank  
26 commissioner;

27 (iii) the authority to hold life insurance on any executive officer ceases  
28 if the executive officer is no longer employed by the bank or no longer  
29 meets the definition of an executive officer;

30 (iv) the authority to hold life insurance on a director ceases when that  
31 director is no longer a member of the board of directors;

32 (v) the bank's board of directors must approve and document the  
33 purchase of any life insurance, including the reasonableness of such pur-  
34 chase; and

35 (vi) except as part of a reasonable compensation or benefit plan, a  
36 bank is not authorized to purchase life insurance as an estate management  
37 device for the benefit of officers, directors or employees who are also  
38 controlling shareholders of the bank.

39 (b) Life insurance purchased for the sole purpose of providing de-  
40 ferred compensation and benefit plans are subject to the following  
41 limitations:

42 (i) The bank may purchase individual or group policies for the sole  
43 purpose of providing deferred compensation agreements entered into

1 with its officers and employees;

2 (ii) the bank may purchase policies on directors to fund a deferred  
3 directors fees program;

4 (iii) the board of directors must approve and document such deferred  
5 plans including the reasonableness of the plans;

6 (iv) the bank is not authorized to hold the policies unless specifically  
7 approved by the state banking board if no liability exists under the de-  
8 ferred compensation plans;

9 (v) the cash surrender value of any life insurance policy purchased  
10 for the sole purpose of providing deferred compensation and benefit  
11 plans, underwritten by any one life insurance company, cannot exceed at  
12 any time, 15% of the bank's capital stock, surplus, undivided profits, loan  
13 loss reserve, capital notes and debentures and reserve for contingency,  
14 unless the bank has obtained the prior approval of the state bank com-  
15 missioner; and

16 (vi) the cash surrender value of life insurance policies purchased for  
17 the sole purpose of providing deferred compensation and benefit plans,  
18 in the aggregate from all companies, cannot at any time exceed 25% of  
19 the bank's capital stock, surplus, undivided profits, loan loss reserve, cap-  
20 ital notes and debentures and reserve for contingency, unless the bank  
21 has obtained the prior approval of the state bank commissioner;

22 (25) subject to such rules and regulations as the state bank commis-  
23 sioner may adopt pursuant to K.S.A. 9-1713, and amendments thereto,  
24 to promote safe and sound banking practices, to act as an agent and  
25 receive deposits, renew time deposits, close loans, service loans, and re-  
26 ceive payments on loans and other obligations for any company which is  
27 a subsidiary, as defined in subsection (d) of K.S.A. 9-519, and amend-  
28 ments thereto, of the bank holding company which owns the bank. Noth-  
29 ing in this subsection shall authorize a bank to conduct activities as an  
30 agent which the bank or the subsidiary would be prohibited from con-  
31 ducting as a principal under any applicable federal or state law. Any bank  
32 which enters or terminates any agreement pursuant to this subsection  
33 shall within 30 days of the effective date of the agreement or termination  
34 provide written notification to the commissioner which details all parties  
35 involved and services to be performed or terminated;

36 (26) to make loans to the bank's stockholders or the stockholders of  
37 the bank's controlling bank holding company on the security of the shares  
38 of the bank or shares of the bank's controlling bank holding company,  
39 with the limitation that this may occur only if the bank would have ex-  
40 tended credit to such stockholder on exactly the same terms without the  
41 shares pledged as collateral, and provided the shares pledged are not a  
42 director's qualifying shares per K.S.A. 9-1117, and amendments thereto;

43 (27) to make investments in and loans to community development

1 corporations (CDCs) and community development projects (CD pro-  
2 jects) as defined in K.S.A. 9-701, and amendments thereto, subject to the  
3 limitations prescribed by the comptroller of the currency as interpreted  
4 by rules and regulations which shall be adopted by the state bank com-  
5 missioner as provided by K.S.A. 9-1713, and amendments thereto; ~~and~~

6 (28) to participate in a school savings deposit program authorized  
7 under K.S.A. 2000 Supp. 9-1138; *and amendments thereto; and*

8 (29) *with prior approval of the commissioner, to offer through one or*  
9 *more financial subsidiaries any products or services which a national bank*  
10 *may offer through its financial subsidiaries, subject to safety and sound-*  
11 *ness requirements imposed by the commissioner. As used in this para-*  
12 *graph, "financial subsidiary" shall have the same meaning given to such*  
13 *term under the Gramm-Leach Bliley act of 1999 (P.L. 106-102).*

14 Sec. 2. K.S.A. 2000 Supp. 9-1101 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its  
16 publication in the statute book.

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