

SENATE BILL No. 219

By Senator Haley

2-12

AN ACT creating the department of financial institutions; transferring the duties of the state bank commissioner to the department of financial institutions; transferring the duties of the securities commissioner to the department of financial institutions; transferring the duties of the credit union administrator to the department of financial institutions; repealing K.S.A. 17-2234 and K.S.A. 2002 Supp. 75-1304 and 75-6301.

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

Section 1. (a) There is hereby established a department of financial institutions. The department shall be administered under the direction and supervision of the secretary of financial institutions who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and who shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the governor.

(b) The provisions of the Kansas governmental operations accountability law apply to the office of secretary of financial institutions and the department of financial institutions, and the office and department are subject to audit, review and evaluation under such law.

Sec. 2. The secretary of financial institutions may appoint, with the consent of the governor, one public information officer, one personal secretary and one special assistant, all of whom shall serve at the pleasure of the secretary of financial institutions, shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of financial institutions with the approval of the governor. The secretary of financial institutions also may appoint such other officers and employees as are necessary to enable the secretary to carry out the duties of the office of the secretary and the department of financial institutions. Except as otherwise specifically provided by law, such officers and employees shall be within the classified service under the Kansas civil service act. All personnel of the department of financial institutions shall perform the duties and functions assigned to them by the secretary or prescribed for them by law and shall act for and exercise the powers of

1 the secretary of financial institutions to the extent authority to do so is
2 delegated by the secretary.

3 Sec. 3. (a) There is hereby established within and as a part of the
4 department of financial institutions a division of banking. The division
5 shall be administered, under the supervision of the secretary of financial
6 institutions, by the state bank commissioner, who shall be the chief ad-
7 ministrative officer of the division. The state bank commissioner shall be
8 appointed by the secretary of financial institutions and shall serve at the
9 pleasure of the secretary. The state bank commissioner shall be in the
10 unclassified service under the Kansas civil service act and shall receive an
11 annual salary fixed by the secretary of financial institutions, with the ap-
12 proval of the governor. The state bank commissioner shall have had at
13 least five years actual banking experience as an executive officer in a state
14 bank in this state. The state bank commissioner shall devote full time to
15 the duties of such office and shall not engage in any private banking
16 business during the commissioner's term of office.

17 (b) The bank commissioner is hereby authorized to appoint two dep-
18 uty commissioners who shall be in the unclassified service under the Kan-
19 sas civil service act and shall receive an annual salary fixed by the bank
20 commissioner. The deputy commissioner of the banking program shall
21 supervise all banks and trust companies as directed by the commissioner
22 and shall perform such other duties as may be required by the commis-
23 sioner. The deputy commissioner of the consumer and mortgage lending
24 program shall supervise all consumer and mortgage lending functions as
25 directed by the commissioner and shall perform such other duties as may
26 be required by the commissioner. If the office of the commissioner is
27 vacant or if the commissioner is absent or unable to act, the deputy com-
28 missioner of the banking program shall be the acting commissioner. The
29 deputy commissioner of the banking program shall have at least five years'
30 experience as a state bank officer or five years' experience as a state or
31 federal regulator. The deputy commissioner of consumer and mortgage
32 lending shall have at least five years' experience in consumer or mortgage
33 lending, regulatory, legal or related experience. Subject to the approval
34 of the secretary of financial institutions, the bank commissioner is also
35 authorized to appoint or contract for, in accordance with the civil service
36 law, such special assistants and other employees as are necessary to prop-
37 erly discharge the duties of the office.

38 (c) Subject to the provisions of appropriation acts and the secretary
39 of financial institutions, the bank commissioner may appoint regional
40 managers and financial examiner administrators within the office of the
41 state bank commissioner as determined necessary by the bank commis-
42 sioner to effectively carry out the mission of the office. All regional man-
43 agers and financial examiner administrators appointed after the effective

1 date of this act shall be in the unclassified service under the Kansas civil
2 service act, shall have special training and qualifications for such positions,
3 shall serve at the pleasure of the bank commissioner and shall receive
4 compensation fixed by the bank commissioner and approved by the
5 governor.

6 Sec. 4. (a) The state banking board created by K.S.A. 74-3004, and
7 amendments thereto, is attached to and is a part of the department of
8 financial institutions. All budgeting, purchasing and related management
9 functions of the state banking board shall be administered by or under
10 the direction and supervision of the secretary of financial institutions as
11 a part of the division of banking. All vouchers for expenditures and all
12 payrolls of the state banking board shall be approved by the secretary of
13 financial institutions or by a person or persons designated by the
14 secretary.

15 (b) The state banking board created by K.S.A. 74-3004, and amend-
16 ments thereto, is hereby specifically continued in existence. Persons who
17 are members of the state banking board on July 1, 2003, shall continue
18 to hold such offices under the conditions and limitations provided in
19 K.S.A. 74-3004, and amendments thereto. Unless otherwise specifically
20 provided herein, the powers, duties and functions vested in or exercised
21 or performed by the state banking board pursuant to law immediately
22 prior to July 1, 2003, shall not be transferred but shall remain the lawful
23 powers, duties and functions of such board.

24 (c) All rules and regulations and all orders or directives of the state
25 banking board, or of any persons authorized by the board to issue orders
26 or directives, in existence on July 1, 2003, shall continue to be effective
27 and shall be deemed to be the rules and regulations and orders or direc-
28 tives of the state banking board until revised, amended, revoked or nul-
29 lified pursuant to law. Nothing in this act shall affect the authority of the
30 state banking board to adopt or promulgate rules and regulations or to
31 issue orders or directives as authorized by law.

32 Sec. 5. (a) There is hereby established within and as a part of the
33 department of financial institutions a division of securities. The division
34 shall be administered, under the supervision of the secretary of financial
35 institutions, by the securities commissioner, who shall be the chief ad-
36 ministrative officer of the division. The securities commissioner shall be
37 appointed by the secretary of financial institutions and shall serve at the
38 pleasure of the secretary. The securities commissioner shall be in the
39 unclassified service under the Kansas civil service act and shall receive an
40 annual salary fixed by the secretary of financial institutions, with the ap-
41 proval of the governor. The securities commissioner shall have special
42 training and qualifications for such position and shall devote full time to
43 the duties of such office and shall not engage in any private securities

1 business during the commissioner's term of office.

2 (b) The securities commissioner may appoint directors within the di-
3 vision of securities as determined necessary by the securities commis-
4 sioner to effectively carry out the mission of the division. All directors
5 appointed shall be in the unclassified service under the Kansas civil serv-
6 ice act, shall have special training and qualifications for such positions,
7 shall serve at the pleasure of the securities commissioner and shall receive
8 compensation fixed by the secretary of financial institutions and approved
9 by the governor.

10 Sec. 6. There is hereby established within and as a part of the de-
11 partment of financial institutions a division of credit unions. The division
12 shall be administered, under the supervision of the secretary of financial
13 institutions, by the credit union administrator, who shall be the chief
14 administrative officer of the division. The credit union administrator shall
15 be appointed by the secretary of financial institutions and shall serve at
16 the pleasure of the secretary. The credit union administrator shall be in
17 the unclassified service under the Kansas civil service act and shall receive
18 an annual salary fixed by the secretary of financial institutions, with the
19 approval of the governor. The credit union administrator shall be a person
20 with at least three years actual practical experience in the operation and
21 management of a credit union. The credit union administrator shall de-
22 vote full time to the duties of such office and shall not engage in any
23 private credit union business during the administrator's term of office.

24 Sec. 7. (a) The credit union council, created by K.S.A. 17-2232, and
25 amendments thereto, is attached to and is a part of the department of
26 financial institutions. All budgeting, purchasing and related management
27 functions of the credit union council shall be administered by or under
28 the direction and supervision of the secretary of financial institutions as
29 a part of the division of credit unions. All vouchers for expenditures and
30 all payrolls of the credit union council shall be approved by the secretary
31 of financial institutions or by a person or persons designated by the
32 secretary.

33 (b) The credit union council created by K.S.A. 17-2232, and amend-
34 ments thereto, is hereby specifically continued in existence. Persons who
35 are members of the credit union council on July 1, 2003, shall continue
36 to hold such offices under the conditions and limitations provided under
37 K.S.A. 17-2232, and amendments thereto. Unless otherwise specifically
38 provided herein, the powers, duties and functions vested in or exercised
39 or performed by the credit union council pursuant to law immediately
40 prior to July 1, 2003, shall not be transferred but shall remain the lawful
41 powers, duties and functions of such council.

42 Sec. 8. On the effective date of this act, the following state offices
43 and department shall be and are hereby abolished:

1 (a) The office of the state bank commissioner created by K.S.A. 75-
2 1304, and amendments thereto;

3 (b) the office of the securities commissioner of Kansas created by
4 K.S.A. 75-6301, and amendments thereto; and

5 (c) the state department of credit unions and the office of the credit
6 union administrator, created by K.S.A. 17-2234, and amendments
7 thereto.

8 Sec. 9. (a) On the effective date of this act, all of the powers, duties,
9 functions, records and property of the state offices and department abol-
10 ished by this act, including the power to administer, expend and distribute
11 funds now or hereafter made available in accordance with appropriation
12 acts, shall be and hereby are transferred to and conferred and imposed
13 upon the secretary of financial institutions. The secretary of financial in-
14 stitutions shall be the successor in every way to the powers, duties and
15 functions of the abolished state offices and department, in which the same
16 were vested prior to the effective date of this act. The secretary of finan-
17 cial institutions shall be a continuation of the abolished state offices and
18 department, and every act performed under the authority of the secretary
19 of financial institutions shall be deemed to have the same force and effect
20 as if performed by the respective office or department in which the au-
21 thority to perform such act was vested prior to the effective date of this
22 act.

23 (b) On and after the effective date of this act, whenever the state
24 offices or department abolished by this act are referred to or designated
25 by a statute, contract or other document, such reference or designation
26 shall be deemed to apply to the secretary of financial institutions.

27 (c) All rules and regulations of the abolished state offices or depart-
28 ment in existence on June 30, 2003, shall continue to be effective and
29 shall be deemed to be duly adopted rules and regulations of the secretary
30 of financial institutions until revised, amended, revoked or nullified pur-
31 suant to law.

32 (d) All policies, orders and directives of the abolished state offices or
33 department in existence on June 30, 2003, shall continue to be effective
34 and shall be deemed to be orders and directives of the secretary of fi-
35 nancial institutions until revised, amended or nullified pursuant to law.

36 Sec. 10. (a) The secretary of financial institutions shall provide that
37 all officers and employees of the abolished state offices or department
38 who are engaged in the exercise and performance of the powers, duties
39 and functions transferred by this act are transferred to the department of
40 financial institutions if the secretary of financial institutions deems that
41 the transfer of such officers and employees is necessary to the exercise
42 and performance of such powers, duties and functions.

43 (b) Officers and employees of the abolished state offices or depart-

1 ment who are transferred to the department of financial institutions shall
2 retain all retirement benefits and leave rights which had accrued or vested
3 prior to the date of transfer. The service of each such officer and em-
4 ployee so transferred shall be deemed to have been continuous. All trans-
5 fers, layoffs and abolition of classified service positions under the Kansas
6 civil service act which may result from transfers of powers, duties and
7 functions shall be made in accordance with the civil service laws and any
8 rules and regulations adopted thereunder. Nothing in this act shall affect
9 the classified status of any transferred person employed by the abolished
10 state offices or department prior to the date of transfer. The secretary of
11 financial institutions shall be responsible for administering any layoff that
12 is a part of the transfer. Notwithstanding the date of transfer of personnel
13 from the abolished state offices or department to the secretary of financial
14 institutions pursuant to the provisions of this act, the date of such transfer
15 shall be effective at the start of a payroll period.

16 Sec. 11. (a) When any conflict arises as to the disposition of any
17 power, function or duty or the unexpended balance of any appropriation
18 as a result of any abolition, transfer or change effected by or under au-
19 thority of this act, such conflict shall be resolved by the governor, whose
20 decision shall be final.

21 (b) On the effective date of this act, the secretary of financial insti-
22 tutions shall succeed to all property and records which were used for or
23 pertain to the performance of the powers, duties and functions trans-
24 ferred to the secretary. Any conflict as to the proper disposition of prop-
25 erty or records arising under this section, and resulting from any abolition
26 or transfer of powers, duties and functions effected by or under authority
27 of this act, shall be determined by the governor, whose decision shall be
28 final.

29 Sec. 12. (a) On and after the effective date of this act, the secretary
30 of financial institutions shall have the legal custody of all records, mem-
31 oranda, writings, entries, prints, representations or combinations thereof
32 of any act, transaction, occurrence or event of any of the abolished state
33 offices and department thereof.

34 (b) No suit, action or other proceeding, judicial or administrative,
35 lawfully commenced, or which could have been commenced, by or against
36 any state agency or program mentioned in this act, or by or against any
37 officer of the state in such officer's official capacity or in relation to the
38 discharge of such officer's official duties, shall abate by reason of this act.
39 The court may allow any such suit, action or other proceeding to be
40 maintained by or against the successor of any such state agency or any
41 officer affected.

42 (c) No criminal action commenced or which could have been com-
43 menced by the state shall abate by reason of the governmental reorgan-

1 ization effected under the provisions of this act.

2 Sec. 13. (a) On the effective date of this act, the balance of all funds
3 appropriated and reappropriated to the abolished state offices and de-
4 partment are hereby transferred to the secretary and the department of
5 financial institutions and shall be used only for the purpose for which the
6 appropriation was originally made.

7 (b) On the effective date of this act, the liability for all accrued com-
8 pensation or salaries of officers and employees who, immediately prior to
9 such date, were engaged in the performance of powers, duties or func-
10 tions of the abolished state offices and department shall be assumed and
11 paid by the secretary of financial institutions.

12 Sec. 14. The secretary of financial institutions shall appoint a chief
13 attorney for the department of financial institutions, who shall serve at
14 the pleasure of the secretary. The chief attorney shall be in the unclas-
15 sified service under the Kansas civil service act and shall receive an annual
16 salary fixed by the secretary of financial institutions, with the approval of
17 the governor. The secretary of financial institutions also may appoint ad-
18 ditional attorneys for the department of financial institutions. Such ad-
19 ditional attorneys shall be in the unclassified service under the Kansas
20 civil service act, shall receive an annual salary fixed by the secretary of
21 financial institutions, with the approval of the governor, and shall be sub-
22 ject to assignment and reassignment of duties within the department of
23 financial institutions as may be determined by the chief attorney.

24 Sec. 15. The secretary of financial institutions may organize the de-
25 partment of financial institutions in the manner the secretary deems most
26 efficient, so long as the same is not in conflict with the provisions of law,
27 and the secretary may establish policies governing the transaction of all
28 business of the department and the administration of each of the divisions
29 within the department.

30 Sec. 16. The secretary of financial institutions shall have the legal
31 custody of all records, memoranda, writings, entries, prints, representa-
32 tions or combinations thereof of any act, transaction, occurrence or event
33 of the department of financial institutions.

34 Sec. 17. K.S.A. 17-2234 and K.S.A. 2002 Supp. 75-1304 and 75-6301
35 are hereby repealed.

36 Sec. 18. This act shall take effect and be in force from and after its
37 publication in the statute book.

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