

HOUSE BILL No. 2352

By Committee on Financial Institutions

2-13

1 AN ACT concerning financial institutions; relating to branch banking,
2 remote service units; amending K.S.A. 2014 Supp. 9-1111 and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as
7 follows: 9-1111. The general business of every bank shall be transacted at
8 the place of business specified in ~~its~~ *the bank's* certificate of authority and
9 at one or more branch banks established and operated as provided in this
10 section. Except for the establishment or operation of a trust branch bank or
11 the relocation of an existing trust branch bank pursuant to K.S.A. 9-1135,
12 and amendments thereto, it shall be unlawful for any bank to establish and
13 operate any branch bank or relocate an existing branch bank except as
14 hereinafter provided. Notwithstanding the provisions of this section, any
15 location at which a depository institution, as defined by K.S.A. 9-701, and
16 amendments thereto, receives deposits, renews time deposits, closes loans,
17 services loans or receives payments on loans or other obligations, as agent,
18 for a bank pursuant to ~~subsection (25) of~~ K.S.A. 9-1101(25), and
19 amendments thereto, or other applicable state or federal law, or is
20 authorized to open accounts or receive deposits under ~~subsection (28) of~~
21 K.S.A. 9-1101(28), and amendments thereto, shall not be deemed to be a
22 branch bank:

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

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

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

35 (2) the application shall include the nature of the banking business to
36 be conducted at the proposed branch bank, the primary geographical area

1 to be served by ~~it~~ *the proposed branch bank*, the personnel and office
2 facilities to be provided at the proposed branch bank and other information
3 the commissioner may require;

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

12 (4) the application shall include proof of publication of notice that the
13 applicant bank intends to file or has filed an application to establish a
14 branch bank or relocate an existing branch bank. The notice shall be
15 published in a newspaper of general circulation in the county where the
16 applicant bank proposes to locate the branch bank. The notice shall be in
17 the form prescribed by the commissioner and at a minimum shall contain
18 the name and address of the applicant bank, the location of the proposed
19 branch and a solicitation for written comments. The notice shall be
20 published on the same day for two consecutive weeks and provide for a
21 comment period of not less than 10 days after the date of the second
22 publication;

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

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

1 finds that:

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

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

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

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

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

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

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

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

42 ~~(5) the application shall include~~ (C) proof of publication of notice
43 that applicant bank intends to file an application to establish a branch bank

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

10 ~~(6)~~ (3) upon receipt of an application meeting the ~~above~~ requirements
11 of *paragraph (2)*, and following the expiration of the comment period,
12 within 60 days the state banking board may hold a hearing in the county in
13 which the applicant bank seeks to establish and operate a branch bank.
14 Notice of the time, date and place of such hearing if one is to be held shall
15 be published in a newspaper of general circulation in the county where the
16 applicant bank proposes to locate the branch bank not less than 10 or more
17 than 30 days prior to the date of the hearing, and proof of publication shall
18 be filed with the commissioner. At any such hearing, all interested persons
19 shall be allowed to present written and oral evidence to the board in
20 support of or in opposition to the application. Upon completion of a
21 transcript of the testimony given at any such hearing, the transcript shall be
22 filed in the office of the commissioner and copies shall be furnished to the
23 members of the state banking board not less than 10 days prior to the
24 meeting of the board at which the application will be considered;

25 ~~(7)~~ (4) the state banking board shall approve or disapprove the
26 application within 90 days after consideration of the application and the
27 evidence gathered during the board's investigation. If the board finds that:

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

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

33 ~~(8)~~ (5) any final action of the board approving or disapproving an
34 application shall be subject to review in accordance with the Kansas
35 judicial review act upon the petition of the applicant or any adversely
36 affected or aggrieved person who provided written comments during the
37 specified comment period;

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

41 (e) branch banks which have been established and are being
42 maintained by a bank at the time of ~~its~~ *the branch bank's* merger into or
43 consolidation with another bank or at the time ~~its~~ *such branch bank's*

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

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

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

32 (h) for purposes of this section, "remote service unit" means an
33 electronic information processing device, including associated equipment,
34 structures and systems, through or by means of which information relating
35 to financial services rendered to the public is stored and transmitted,
36 ~~whether instantaneously or otherwise,~~ to a bank and which, for activation
37 and account access, is dependent upon the use of a machine-readable
38 instrument in the possession and control of the holder of an account with a
39 bank *or is activated by a person upon verifiable personal identification.*
40 The term shall include "online" computer terminals *that may be equipped*
41 *with a telephone or televideo device that allows contact with bank*
42 *personnel* and "offline" automated cash dispensing machines and
43 automated teller machines, ~~but shall not include computer terminals or~~

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

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

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

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

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

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

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

15 (3) is not subject to a cease and desist order, consent order, prompt
16 corrective action directive, written agreement, memorandum of
17 understanding or other administrative agreement with ~~its~~ *the bank's*
18 primary federal regulator or the office of the state bank commissioner.

19 Sec. 2. K.S.A. 2014 Supp. 9-1111 is hereby repealed.

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