

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Financial Institutions and Insurance** recommends **HB 2489**, as amended by House Committee, be amended on page 2, in line 30, after "of" by inserting "the";

On page 4, in line 9, after "(12)" by inserting "'out-of-state bank" means a national or state bank, savings and loan association or savings bank not incorporated under the laws of Kansas;

(13) "out-of-state financial institution" means an out-of-state bank or an out-of-state trust company;

(14) "out-of-state trust company" means a national or state trust company not incorporated under the laws of Kansas;

(15)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 5, in line 40, after "(b)" by inserting "(1)"; also in line 40, after "No" by inserting "Kansas-chartered state"; also in line 40, after the comma by inserting "Kansas-chartered state"; following line 42, by inserting:

"(2) Except as otherwise provided by this subsection, any trust company whose application has been approved in accordance with this section and any out-of-state trust company engaging in fidfin transactions in this state shall be considered a fiduciary financial institution for the purposes of this act, shall have all rights and powers granted to a fiduciary financial institution under this act and shall owe all duties and obligations imposed on fiduciary financial institutions under this act, including, but not limited to, the fiduciary duties imposed under K.S.A. 2021 Supp. 9-2311 and 9-2313, and amendments thereto, and the requirements of K.S.A.

2021 Supp. 9-2302(c)(5) and (6), and amendments thereto.

(3) Any bank whose application has been approved in accordance with this section and any out-of-state bank that engages in fidfin transactions in this state shall have a separate department for handling fidfin transactions. Except as otherwise provided by this subsection, such separate department shall be considered a fiduciary financial institution for the purposes of this act, shall have all rights and powers granted to a fiduciary financial institution under this act and shall owe all duties and obligations imposed on fiduciary financial institutions under this act, including, but not limited to, the fiduciary duties imposed under K.S.A. 2021 Supp. 9-2311 and 9-2313, and amendments thereto, and the requirements of K.S.A. 2021 Supp. 9-2302(c)(5) and (6), and amendments thereto.

(4) Notwithstanding the provisions of paragraphs (2) and (3):

(A) A bank or trust company whose application has been approved in accordance with this section or an out-of-state financial institution that engages in fidfin transactions in this state shall not be subject to the provisions of K.S.A. 2021 Supp. 9-2305, 9-2306 or 9-2308, and amendments thereto; and

(B) the commissioner shall not examine or require applications, reports or other filings from an out-of-state financial institution that is subject to oversight of such financial institution's fidfin transactions by a governmental agency of the jurisdiction that chartered the out-of-state financial institution.";

On page 11, following line 14, by inserting:

"Sec. 4. K.S.A. 2021 Supp. 9-2304 is hereby amended to read as follows: 9-2304. (a) To the extent a conflict does not exist between this act and chapter 9 of the Kansas Statutes Annotated, and amendments thereto, except as provided in subsections (b), (c) and (e), the provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall apply to a fiduciary financial institution in the same manner as it applies to a trust company except that

references in chapter 9 of the Kansas Statutes Annotated, and amendments thereto, to:

- (1) "Capital stock" includes membership capital and partner capital;
- (2) "stock" includes membership units and partnership interests;
- (3) "common stock" includes common units and common interests;
- (4) "preferred stock" includes preferred units and preferred interests;
- (5) "stockholders" includes members and partners;
- (6) "articles of incorporation" includes articles of organization and articles of limited

partnership;

- (7) "incorporation" includes organization;
- (8) "corporation" includes company and partnership;
- (9) "corporate" includes company and partnership;
- (10) "trust business" and "business of a trust company" includes fidfin and fiduciary

financial institution business; and

(11) K.S.A. 9-901a(a), and amendments thereto, means K.S.A. 2021 Supp. 9-2305, and amendments thereto.

(b) For a Kansas-chartered state trust company that receives authority to engage in fidfin transactions under K.S.A. 2021 Supp. 9-2302(b), and amendments thereto, the provisions of subsection (a) shall not apply, however, references in chapter 9 of the Kansas Statutes Annotated, and amendments thereto, to "trust business" and "business of a trust company" include fidfin and fiduciary financial institution business.

(c) For a Kansas-chartered state bank that receives authority to engage in fidfin transactions under K.S.A. 2021 Supp. 9-2302(b), and amendments thereto, the provisions of subsection (a) shall not apply, however, the provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall apply in the same manner as they would apply to a trust department of such bank, except that references in chapter 9 of the Kansas Statutes

Annotated, and amendments thereto, to "trust business" and "business of a trust company" include fidfin and fiduciary financial institution business.

(d) (1) Except as provided in paragraph (2), if any conflict exists between any provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, and this act, the provisions of this act shall control.

(2) If the fiduciary financial institution is a bank department or trust company that received authority to engage in fidfin transactions under K.S.A. 2021 Supp. 9-2302(b), and amendments thereto, the provisions of this act shall only control with regard to fidfin transactions as authorized under K.S.A. 2021 Supp. 9-2302(b), and amendments thereto.

(e) The provisions of this section shall not apply to an out-of-state financial institution.";

On page 22, in line 29, before "9-2306" by inserting "9-2304,";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, before "fees" by inserting "out-of-state financial institutions; imposing certain fiduciary duties and charitable distribution requirements on financial institutions engaging in fiduciary financial institution business; requiring banks to conduct fidfin transactions through a separate department; exempting financial institutions from certain provisions of the technology-enabled fiduciary financial institutions act; establishing"; in line 7, before "9-2306" by inserting "9-2304,"; and the bill be passed as amended.

Chairperson