

SENATE BILL No. 230

By Legislative Post Audit Committee

2-6

9 AN ACT concerning financial institutions; relating to the creation of the
10 department of financial institutions.

11

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

13 Section 1. There is hereby established a department of financial in-
14 stitutions. The department shall be administered under the direction and
15 supervision of the secretary of financial institutions who shall be ap-
16 pointed by the governor, subject to confirmation by the senate as provided
17 in K.S.A. 75-4315b, and amendments thereto, and who shall serve at the
18 pleasure of the governor. The secretary shall be in the unclassified civil
19 service under the Kansas civil service act and shall receive an annual salary
20 fixed by the governor.

21 Sec. 2. The secretary of financial institutions may appoint such offi-
22 cers and employees as are necessary to enable the secretary to carry out
23 the duties of the office of the secretary and the department of financial
24 institutions. Except as otherwise specifically provided by law, such officers
25 and employees shall be within the classified service under the Kansas civil
26 service act. All personnel of the department of financial institutions shall
27 perform the duties and functions assigned to them by the secretary or
28 prescribed for them by law and shall act for and exercise the powers of
29 the secretary of financial institutions to the extent authority to do so is
30 delegated by the secretary.

31 Sec. 3. There is hereby established within and as a part of the de-
32 partment of financial institutions a division of banks and credit unions.
33 The division shall be administered, under the supervision of the secretary
34 of financial institutions, by the director of the division of banks and credit
35 unions, who shall be the chief administrative officer of the division. The
36 director of the division of banks and credit unions shall be appointed by
37 the secretary of financial institutions and shall serve at the pleasure of the
38 secretary. The director of the division of banks and credit unions shall be
39 in the unclassified service under the Kansas civil service act and shall
40 receive an annual salary fixed by the secretary of financial institutions,
41 with the approval of the governor. The director shall have at least five-
42 years experience in bank or credit union management, regulatory, legal
43 or related experience and shall not engage in any private banking or credit

1 union business while employed by the division.

2 Sec. 4. (a) The state banking board created by K.S.A. 74-3004, and
3 amendments thereto, is attached to and is part of the department of
4 financial institutions. All budgeting, purchasing and related management
5 functions of the state banking board shall be administered by or under
6 the direction and supervision of the secretary of financial institutions as
7 a part of the division of banks and credit unions. All vouchers for ex-
8 penditures and all payrolls of the state banking board shall be approved
9 by the secretary of financial institutions or by a person or persons des-
10 ignated by the secretary.

11 (b) The state banking board created by 74-3004, and amendments
12 thereto, is hereby specifically continued in existence. Persons who are
13 members of the state banking board shall continue to hold such offices
14 under the conditions and limitations provided in K.S.A. 74-3004, and
15 amendments thereto. Unless otherwise specifically provided herein, the
16 powers, duties and functions vested in or exercised or performed by the
17 state banking board shall not be transferred but shall remain the lawful
18 powers, duties and functions of such board.

19 (c) All rules and regulations and all orders or directives of the state
20 banking board, or of any persons authorized by the board to issue orders
21 or directives shall continue to be effective and shall be deemed to be the
22 rules and regulations and orders or directives of the state banking board
23 until revised, amended, revoked or nullified pursuant to law. Nothing in
24 this act shall affect the authority of the state banking board to adopt or
25 promulgate rules and regulations or to issue orders or directives as au-
26 thorized by law.

27 Sec. 5. (a) The credit union council, created by K.S.A. 12-2322, and
28 amendments thereto, is attached to and is part of the department of
29 financial institutions. All budgeting, purchasing and related management
30 functions of the credit union council shall be administered by or under
31 the direction and supervision of the secretary of financial institutions as
32 a part of the division of banks and credit unions. All vouchers for ex-
33 penditures and all payrolls of the credit union council shall be approved
34 by the secretary of financial institutions or by a person or persons des-
35 ignated by the secretary.

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

1 Sec. 6. There is hereby established within and as a part of the de-
2 partment of financial institutions a division of securities. The division shall
3 be administered, under the supervision of the secretary of financial in-
4 stitutions, by the director of the securities division, who shall be the chief
5 administrative officer of the division. The director of the securities divi-
6 sion shall be appointed by the secretary of financial institutions and shall
7 serve at the pleasure of the secretary. The director of the securities di-
8 vision shall be in the unclassified service under the Kansas civil service
9 act and shall receive an annual salary fixed by the secretary of financial
10 institutions, with the approval of the governor. The director of the se-
11 curities division shall have at least five-years experience in the regulation
12 of securities, the prosecution of fraudulent transactions or related expe-
13 rience and shall not engage in any private securities business while em-
14 ployed by the division.

15 Sec. 7. There is hereby established within and as a part of the de-
16 partment of financial institutions a division of consumer and mortgage
17 lending. The division shall be administered, under the supervision of the
18 secretary of financial institutions, by the director of the consumer and
19 mortgage lending division. The director of the consumer and mortgage
20 lending division shall be appointed by the secretary of financial institu-
21 tions and shall serve at the pleasure of the secretary. The director of the
22 consumer and mortgage lending division shall be in the unclassified serv-
23 ice under the Kansas civil service act and shall receive an annual salary
24 fixed by the secretary of financial institutions, with the approval of the
25 governor. The director of the consumer and mortgage lending division
26 shall have at least five-years experience in consumer or mortgage lending,
27 regulatory, legal or related experience.

28 Sec. 8. (a) On January 1, 2010, the following state offices and de-
29 partments shall be and are hereby abolished:

30 (1) The office of the state bank commissioner created by K.S.A. 75-
31 1304, and amendments thereto;

32 (2) the office of the securities commissioner of Kansas created by
33 K.S.A. 75-6301, and amendments thereto;

34 (3) the state department of credit unions and the office of the credit
35 union administrator, created by K.S.A. 17-2234, and amendments
36 thereto.

37 (b) On January 1, 2010, all of the powers, duties, functions, records
38 and property of the state offices and departments abolished by this act,
39 including the power to administer, expend and distribute funds now or
40 hereafter made available in accordance with appropriation acts, are
41 hereby transferred to and conferred and imposed upon the secretary of
42 financial institutions.

43 (c) The secretary shall be the successor in every way to the powers,

1 duties and functions of the abolished state offices and departments. The
2 secretary of financial institutions shall be a continuation of the abolished
3 state offices and departments, and every act performed under the au-
4 thority of the secretary of financial institutions shall be deemed to have
5 the same force and effect as if performed by the respective office or
6 department in which the authority to perform such act was vested prior
7 to the effective date of this act.

8 (d) On and after January 1, 2010, whenever the state offices or de-
9 partments abolished by this act are referred to or designated by a statute,
10 contract or other document, such reference or designation shall be
11 deemed to apply to the secretary of financial institutions.

12 (e) All rules and regulations of the abolished state offices or depart-
13 ments shall continue to be effective and shall be deemed to be duly
14 adopted rules and regulations of the secretary of financial institutions until
15 revised, amended, revoked or nullified pursuant to law.

16 (f) All policies, orders and directives of the abolished state offices or
17 departments shall continue to be effective and shall be deemed to be
18 orders and directives of the secretary of financial institutions until revised,
19 amended or nullified pursuant to law.

20 Sec. 9. (a) The secretary of financial institutions shall provide that all
21 officers and employees of the abolished state offices or departments who
22 are engaged in the exercise and performance of the powers, duties and
23 functions transferred by this act are transferred to the department of
24 financial institutions if the secretary of financial institutions deems that
25 the transfer of such officers and employees is necessary to the exercise
26 and performance of such powers, duties and functions.

27 (b) Officers and employees of the abolished state offices or depart-
28 ments who are transferred to the department of financial institutions shall
29 retain all retirement benefits and leave rights which had accrued or vested
30 prior to the date of transfer. The service of each such officer and em-
31 ployee so transferred shall be deemed to have been continuous. All trans-
32 fers, layoffs and abolition of classified service positions under the Kansas
33 civil service act which may result from transfers of powers, duties and
34 functions shall be made in accordance with the civil service laws and any
35 rules and regulations adopted thereunder. Nothing in this act shall affect
36 the classified status of any transferred person employed by the abolished
37 state offices or departments prior to the date of transfer. The secretary
38 of financial institutions shall be responsible for administering any layoff
39 that is a part of the transfer. Notwithstanding the date of transfer of
40 personnel from the abolished state offices or departments to the secretary
41 of financial institutions pursuant to the provisions of this act, the date of
42 such transfer shall be effective at the start of a payroll period.

43 Sec. 10. (a) When any conflict arises as to the disposition of any

1 power, function or duty or the unexpended balance of any appropriation
2 as a result of any abolition, transfer or change effected by or under au-
3 thority of this act, such conflict shall be resolved by the governor, whose
4 decision shall be final.

5 (b) The secretary of financial institutions shall succeed to all property,
6 property rights and records which were used for or pertain to the per-
7 formance of the powers, duties and functions transferred to the secretary.
8 Any conflict as to the proper disposition of property or records arising
9 under this section, and resulting from any abolition or transfer of powers,
10 duties and functions effected by or under authority of this act, shall be
11 determined by the governor, whose decision shall be final.

12 Sec. 11. (a) The secretary of financial institutions shall have the legal
13 custody of all records, memoranda, writings, entries, prints, representa-
14 tions or combinations thereof of an act, transaction, occurrence or event
15 of any of the abolished state offices and departments thereof.

16 (b) No suit, action or other proceeding, judicial or administrative,
17 lawfully commenced, or which could have been commenced, by or against
18 any state agency or program mentioned in this act, or by or against any
19 officer of the state in such officer's official capacity or in relation to the
20 discharge of such officer's official duties, shall abate by reason of the
21 governmental reorganization effected under the provisions of this act. The
22 court may allow any such suit, action or other proceeding to be main-
23 tained by or against the successor of any such state agency or any officer
24 affected.

25 (c) No criminal action commenced or which could have been com-
26 menced by the state shall abate by reason of the governmental reorgan-
27 ization effected under the provisions of this act.

28 Sec. 12. (a) The balance of all funds appropriated and reappropriated
29 to the abolished state offices and departments are hereby transferred to
30 the secretary and the department of financial institutions and shall be
31 used only for the purpose for which the appropriation was originally
32 made.

33 (b) On January 1, 2010, the liability for all accrued compensation or
34 salaries of officers and employees who, immediately prior to such date,
35 were engaged in the performance of powers, duties or functions of the
36 abolished state offices and departments shall be assumed and paid by the
37 secretary of financial institutions.

38 Sec. 13. The secretary of financial institutions shall appoint a chief
39 attorney for the department of financial institutions, who shall serve at
40 the pleasure of the secretary. The chief attorney shall be in the unclas-
41 sified service under the Kansas civil service act and shall receive an annual
42 salary fixed by the secretary of financial institutions, with the approval of
43 the governor. The secretary of financial institutions also may appoint ad-

1 ditional attorneys for the department of financial institutions. Such ad-
2 ditional attorneys shall be in the unclassified service under the Kansas
3 civil service act, shall receive an annual salary fixed by the secretary of
4 financial institutions, with the approval of the governor, and shall be sub-
5 ject to assignment and reassignment of duties within the department of
6 financial institutions as may be determined by the chief attorney.

7 Sec. 14. The secretary of financial institutions may organize the de-
8 partment of financial institutions in the manner the secretary deems most
9 efficient, so long as the same is not in conflict with the provisions of law,
10 and the secretary may establish policies governing the transaction of all
11 business of the department and the administration of each of the divisions
12 within the department.

13 Sec. 15. The secretary of financial institutions shall have the legal
14 custody of all records, memoranda, writings, entries, prints, representa-
15 tions or combinations thereof of any act, transaction, occurrence or event
16 of the department of financial institutions.

17 Sec. 16. This act shall take effect and be in force from and after
18 January 1, 2010, and its publication in the statute book.