

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:14 a.m. on January 27, 1993 in Room 529-S of the Capitol.

All members were present.

Committee staff present: William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: Gary Sherrer, Fourth Financial Corporation
Judi Stork, Office of the Bank Commissioner
Jim Maag, Kansas Bankers Association

Others attending: See attached list

Gary Sherrer, Fourth Financial Corporation, appeared before the committee to request introduction of legislation to increase the bank deposit cap limitation from 12% to 18%. (Attachment #1.) Senator Lawrence made a motion, seconded by Senator Corbin, to introduce this legislation. The motion carried.

The Chairman opened the hearing on **SB 30**. Judi Stork, Office of the Bank Commissioner, appeared before the committee to testify in favor of this bill which relates to interstate banking. (Attachment #2.) Ms. Stork also presented a balloon amendment to the bill to delete subsection (e), amend language in subsection (d) (a), and add subsection (d)(d). Chairman Bond gave a brief history of the Interstate Banking Bill passed in 1991. The purpose of this bill is to clarify intent and language to prohibit "leap-frogging" (an out of state financial institution not listed in the Interstate Banking bill acquiring a bank holding company which is permitted to and owns a Kansas bank and thereby assuming control of a bank in Kansas). The Bank Commissioner's office also proposed granting an additional year to divest with the approval of the Commissioner, which would allow two years to divest. Senator Steffes stated that he agrees with the language regarding granting up to two years for divestiture.

The Community Bankers Association offered written testimony in support of this bill. (Attachment #3).

Jim Maag, KBA, stated that the State Affairs Committee of the KBA has reviewed the language in subsection (d) and finds the language acceptable. In response to Senator Bond's question about the one to two years to divest, Ms. Stork advised that the two year time limit is consistent with K.S.A. 9-520. Mr. Sherrer stated that Fourth Financial Corporation supports the language clarification and finds the two year time period to be fair. There were no further questions and no other conferees; the hearing was closed.

Senator Corbin made a motion to change page 2, line 5 to allow two years to divest and delete the language regarding an extension to be granted by the Banking Commissioner. The motion was seconded by Senator Lawrence. The motion carried.

Senator Praeger moved to delete subsection (e) as suggested by the Bank Commissioner. Senator Petty seconded the motion. The motion carried.

Senator Praeger moved to amend page 2, line 6 as requested by the Bank Commissioner. Senator Lawrence seconded the motion. The motion carried.

Senator Steffes made a motion, seconded by Senator Praeger, to move the bill favorably as amended. The motion carried.

The hearing on **SB 36** was opened. Judi Stork, Office of the Bank Commissioner, appeared before the committee to testify in favor of this bill. (Attachment #4.) This bill would create a new section within the banking code relating to Loan Production Offices (LPO's) and would grant the Banking Department specific oversight and examination authority over these offices. Senator Steffes inquired whether or not this bill would discourage out of state financial institutions from doing business in Kansas and Ms. Stork advised that other states have apparently experienced no difficulty. There were no further questions and no other conferees;

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:14 a.m. on January 27, 1993.

therefore, the hearing was closed. Senator Praeger made a motion to remove the word "his" from page 2, line 20. The motion was seconded by Senator Lawrence. The motion carried.

Senator Lawrence made a motion to move the bill favorably. The motion was seconded by Senator Praeger. The motion carried.

The committee adjourned at 9:55 a.m.

The next meeting is scheduled for January 28, 1993.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 1-27-93

[illegible]

9-520. Same; ownership limitations; exceptions. (a) Excluding shares held under the circumstances set out in paragraph (2) of subsection (a) of K.S.A. 9-519, and amendments thereto, no bank holding company or any subsidiary thereof shall directly or indirectly acquire ownership or control of, or power to vote, any of the voting shares of any bank domiciled in this state if, after such acquisition, all banks domiciled in this state, in which the bank holding company or any subsidiary thereof has ownership or control of, or power to vote, any voting shares, would have, in the aggregate, more than ~~12%~~ 18% of the total deposits of all banks in this state plus the total deposits, savings deposits, shares and other accounts in savings and loan associations, federal savings banks and building and loan associations in this state as determined by the state bank commissioner on the basis of the most recent reports to supervisory authorities which are available at the time of the acquisition.

(b) This section shall not prohibit a bank holding company or any subsidiary thereof from acquiring ownership or control of, or power to vote, any of the voting shares of any bank domiciled in this state if the state bank commissioner, in the case of a bank organized under the laws of this state, or the comptroller of the currency, in the case of a national banking association, determines that an emergency exists and that the acquisition is appropriate

in order to protect the public interest against the failure or probable failure of the bank.

History: L. 1985, ch. 55, § 3; L. 1990, ch. 54, § 2; May 3.

Senate F141
1-27-93
Attachment #1

TESTIMONY BEFORE
THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
January 27, 1993

SENATE BILL 30, amends K.S.A. 9-532, which relates to interstate banking. The department originally proposed the addition of two new sections to this statute, that being section (d) and (e). I'd like to refer you to the attached balloon amendment that deletes all of section (e). The department has decided not to pursue the addition of this section at this time.

We are, however, requesting you amend K.S.A. 9-532 by adding section (d) to merely clarify the language of this statute. In reviewing legislative testimony and in speaking with individuals involved with the passage of the interstate banking law, it was the clear intent that "leapfrogging" not be allowed. By leapfrogging I am referring to the example where a Illinois holding company would purchase a Missouri holding company which owns control of a Kansas bank. The state of Illinois is not included in the limited region set forth in the interstate law and a holding company from that state would be prohibited from acquiring a Kansas bank. The department feels the current language of K.S.A 9-532 does not clearly project the intended prohibition on leapfrogging. It is our opinion that proposed section (d) of this bill does just that. Additionally, we are including language which requires the divestiture of a Kansas bank, within one year, if the above scenario would occur. We are asking today for an amendment to the bill, that would grant an additional one year time frame to divest, upon the approval of the bank commissioner. We also asking today for an amendment to language on page two, line six. Currently the word control is utilized. We wish the wording to read as noted in the balloon, which is identical to language on page one, line 16.

Senate F141 1/27/93
Attachment # 2

SENATE BILL No. 30

By Committee on Financial Institutions and Insurance

1-15

AN ACT concerning banks and banking; amending K.S.A. 1992 Supp. 9-532 and repealing the existing section.

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

Section 1. K.S.A. 1992 Supp. 9-532 is hereby amended to read as follows: 9-532. (a) On and after July 1, 1992, a bank holding company located in a state contiguous to this state or in the state of Arkansas or Iowa, with approval of the state banking board, may acquire, directly or indirectly, ownership or control of, or power to vote, any of the voting shares of, an interest in, or all or substantially all of the assets of a bank having its principal place of business located in this state or of a bank holding company located in this state.

(b) For purposes of K.S.A. 9-519 through 9-524, and amendments thereto, and K.S.A. 9-532 through 9-539, and amendments thereto, a bank holding company is located in that state or jurisdiction in which the total deposits of its banking subsidiaries are largest as of the time the application referred to in subsection (c) is filed with the state banking board.

(c) A bank holding company located in a state or jurisdiction other than this state proposing to acquire, directly or indirectly, ownership or control of, or power to vote, any of the voting shares of, an interest in, or all or substantially all of the assets of a bank having its principal place of business located in this state, or of a bank holding company located in this state, shall file an application with the state banking board in a form and containing the information prescribed by K.S.A. 9-533, and amendments thereto, and by rules and regulations adopted by the state bank commissioner. At the time of filing the application, the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner.

(d) *Nothing in this section shall be construed to permit a bank holding company located in a state other than those referred to in section (a), to acquire directly or indirectly, ownership or control or power to vote, any of the voting shares of, an interest in, or or substantially all of the assets of a bank or bank holding*

F141 1/27/93
2-2

1 any located in this state. In the event a bank holding company
2 s to be "located" as defined in subsection (b), in a state referred
3 to in subsection (a), the bank holding company shall immediately
4 notify the commissioner of the change in its status and shall, as soon
5 as practical and within not more than one year after the change in
6 its status, divest itself of ~~control~~ of all Kansas banks and Kansas
7 bank holding companies. A bank holding company that fails to im-
8 mediately notify the commissioner shall be guilty of a misdemeanor
9 and shall be fined \$500 each day beginning the day its status changed
10 and ending the day notification is received by the commissioner.

11 (e) ~~Any bank holding company located in Kansas shall file with~~
12 ~~the commissioner notice of its intention to acquire a bank or bank~~
13 ~~holding company located outside Kansas, together with such infor-~~
14 ~~mation as the commissioner shall require. After receiving all such~~
15 ~~required information the commissioner shall within 30 days approve~~
16 ~~such acquisition upon a determination the acquisition will not ad-~~
17 ~~versely affect the safety and soundness, or the interests of the de-~~
18 ~~positors, creditors and the stockholders of the bank holding~~
19 ~~company's subsidiary Kansas banks.~~

20 Sec. 2. K.S.A. 1992 Supp. 9-532 is hereby repealed.

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

direct or indirect ownership or control of, or power to vote, any of
the voting shares of, an interest in, or all or substantially all
of the assets

Upon request of a bank holding company, the commissioner
may grant an extension of an additional one year to
complete the divestiture required by the preceding
sentence.

6/27/93
H-1-2-3



Community Bankers Association *of Kansas*

Suite 100, 5605 S.W. Barrington Court, Topeka, Kansas 66614, Phone (913) 271-1404

Testimony before the Senate Committee on Financial Institutions and Insurance regarding Senate Bill 30 January 27, 1993

The Community Bankers Association of Kansas recommends the passage of Senate Bill 30. In 1991, when the initial law permitting interstate banking was passed, there was a concern raised by legislators as to whether bank holding companies in states other than the states named in the law, could purchase Kansas banks through a practice known as leap-frogging.

You have already been advised as to how the leap-frog effect occurs 1) an out-of-state bank holding company (BHC), within a defined regional area makes an approved purchase of a bank in another state 2) then the BHC making the original purchase is purchased by a BHC in another state - outside the defined regional interstate banking law. The language drafted in 1991 interstate banking law enacted in Kansas does not specifically address this issue.

Senate Bill 30 recognizes the possibility of such an occurrence in Kansas. We appreciate the efforts of the State Banking Department to more clearly define the parameters of the law establishing interstate banking in Kansas.

Directed by the members we serve

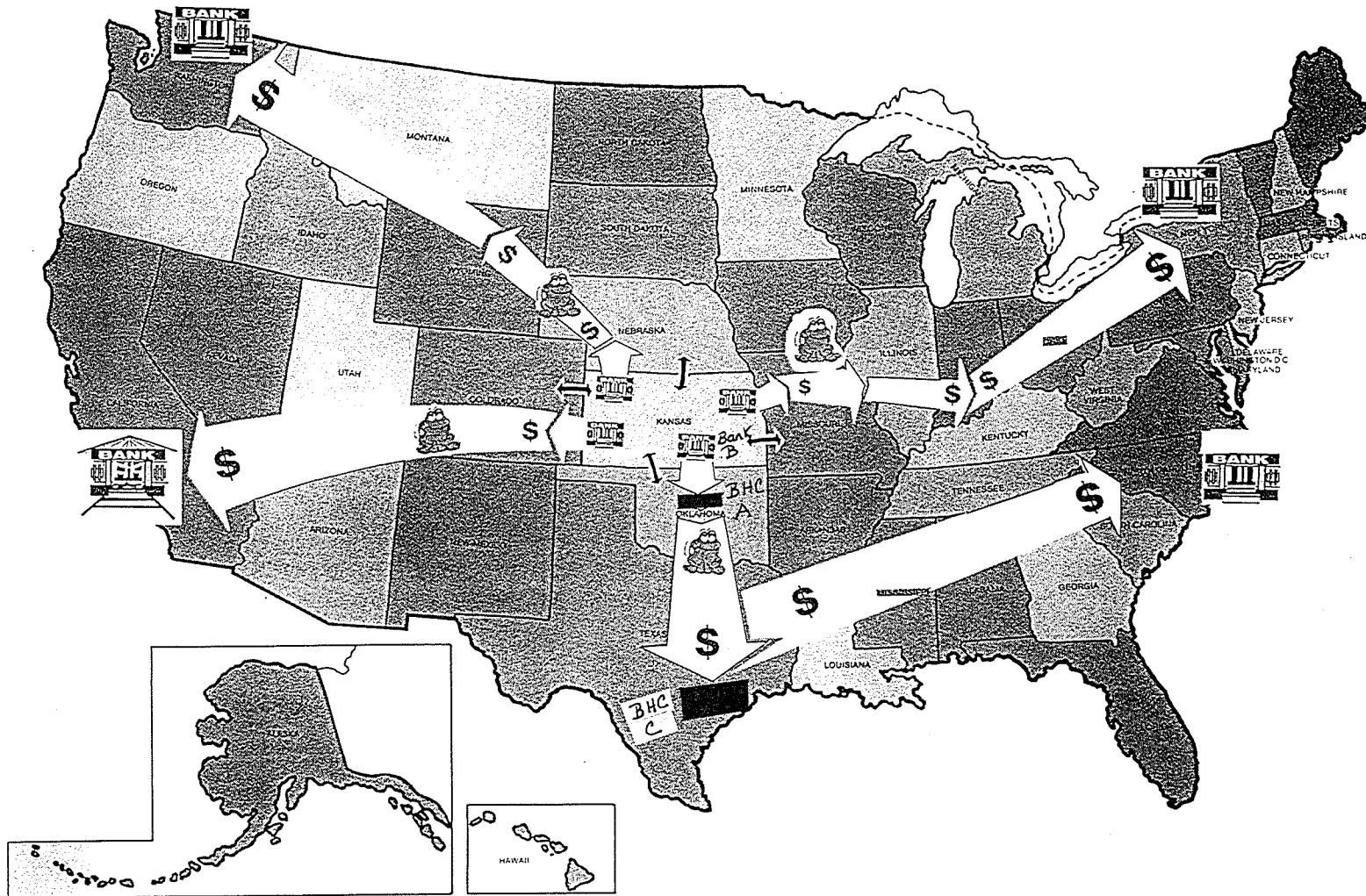
*Senate File 1/27/93
Attachment #3*

Senate Bill 30
January 27, 1993
Page -2-

If it has not already been considered, the Community Bankers Association recommends that a reporting provision be added to the bill to enable the Banking Department to efficiently assess ownership and headquarters location changes in out-of-state bank holding companies which own Kansas banks. Therefore, in addition to the provision proposed in Section 1 (d), we recommend a standard report be submitted no less than annually to the State Banking Department. The report should include a listing of all bank subsidiaries owned by out-of-state BHC's which own Kansas banks regardless of which states the other bank subsidiaries are located.

We respectfully request Senate Bill 30 be passed favorably and include the addition of a reporting requirement in Section 1(d). Thank you.

FILED 1/27/93
3-2



K.S.A. 532 says only bank holding companies (BHC's) whose "principal place of business" is in an adjacent state (Colorado, Missouri, Nebraska, Oklahoma) or the neighboring states of Iowa or Arkansas may purchase a Kansas bank. However, the current law does not address a situation known as a "leap frog" effect.

Consider this scenario: BHC A, whose principal place of business is in Oklahoma, buys Bank B whose principal place of business is in Kansas. Following that transaction, Bank C, whose principal place of business is in Texas (or any other state nationwide) buys bank A, still located in Oklahoma. That allows a BHC in a state not recognized by the regional interstate banking parameters to own a Kansas bank. Nothing in the current language of K.S.A. 532 prevents that.

Senate Bill 30 addresses this issue and the corrects any opportunity for a leap frog effect to occur.

1/24 1/27/93
3-3

SENATE BILL 36, is not amending any existing law and would be a new section within the banking code relating to Loan Production Offices(LPOs). This bill would require that before any new loan production office could be established in Kansas by a bank or trust company, prior approval of the Commissioner's office would be necessary. Additionally, the bill establishes annual reporting requirements for loan production offices, it details the activities which are permissible and impermissible, defines the Commissioner's authority to examine LPOs, and grants the Commissioner authority to revoke the LPOs authority to operate.

To give you some background on this issue, prior to 1986, the banking code stated that a bank could not "establish and operate any branch bank, branch office or agency or place of business" except as provided by that section. In 1986 this language was removed. In 1988 our office asked the Attorney General for an opinion as to whether or not a LPO was governed by the branching statute within the banking code. The Attorney General opined that a LPO was not a branch bank and was not subject to that section of the banking code. Our in house counsel at that time further opined that since the activities pursued at a LPO are not considered general banking business, as no core functions are performed, the banking code does not restrict the activities. The department distributed an all bank mailing in August, 1990 which outlined both the Attorney General's and the department's opinion regarding LPOs.

The department is requesting this new section of the banking code to allow the department to know who is operating an LPO in Kansas. Currently we have no knowledge of any out of state bank LPOs and are aware of only a handful of Kansas bank LPOs. Additionally, we think this new section will give guidance as to acceptable activities to those wishing to establish and maintain a LPO. Finally, it grants the department specific oversight and examination authority of these offices.

File 1/27/93
Attachment #4