

Approved: February 10, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:06 on February 9, 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: Terry Tiede, State Insurance Department
Richard Wilborn, Farmers Alliance Mutual
Representative Darlene Cornfield
Stephen English, Trust Company of Kansas
Judi Stork, Deputy Bank Commissioner
W. Newton Male, Prairie State Bank
Daryl Craft, Guardian Trust
Clifford Shinski, Investor Services Trust Company
Brian LaGree, Columbian Trust

Others attending: See attached list

The meeting was called to order at 9:06 a.m. Senator Corbin made a motion, seconded by Senator Steffes, to approve the minutes of the meetings of February 3 and 4 as submitted. The motion carried.

The hearing was opened on **HB 2076** --Mutual companies; merger or consolidation. Terry Tiede, Assistant Insurance Commissioner, appeared as a proponent. (Attachment #1.) The bill will eliminate the policy holder vote of the acquiring entity currently required if the surplus of the surviving company is 25 or more times greater than the non-surviving company. At Senator Bond's request, Mr. Tiede identified the two companies currently involved in the contemplated merger.

Richard Wilborn, Farmers Alliance Mutual, appeared as a proponent (Attachment #2.), and explained that the cost of notifying the approximately 120,000 policyholders of his company concerning the proposed merger would be about \$80,000 and the expected return rate from the mailing is very low, perhaps less than 10%.

Representative Darlene Cornfield appeared briefly to request favorable consideration of the bill.

There being no further conferees, the hearing was closed. Senator Steffes moved to pass HB 2076 favorably. Senator Lawrence seconded the motion. The motion carried. The bill will be carried on the floor by Senator Steffes.

The hearing was opened on **SB 179**--the trust company branching bill. Chairman Bond advised the committee and conferees that, subsequent to the reworking of the bill by the Bank Department staff and Mr. English, Mr. Carman has prepared **Substitute for SB 179**, which language closely mirrors the language in the bill on branch banking. (Attachment #3.)

Stephen English, Trust Company of Kansas, appeared before the committee to testify as a proponent of the bill. (Attachment #4.)

Judi Stork, Deputy Bank Commissioner, advised the committee that the Banking Department approves of the language in the substitute bill, and supports Sub. SB 179.

W. Newton Male, Prairie State Bank, appeared before the committee to testify as a proponent. (Attachment #5.)

Daryl V. Craft, Guardian Trust Company, also appeared to testify in favor of passage of **SB 179**. (Attachment # 6.)

Clifford Shinski, Investor Services Trust Company, also appeared as a proponent. (Attachment #7.)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:06 on February 9, 1993.

Brian LaGree, Columbian Trust Company , appeared before the committee to testify in opposition to certain language contained in **SB 179**. (Attachment #8.) However, the meeting time elapsed before Mr. LaGree could finish his testimony; therefore, the hearing on **Sub.SB 179** will be continued to Monday, 2/15/93.

The meeting adjourned at 10:00 a.m.

The next meeting is scheduled for February 10, 1993.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2/9/93

[illegible]

Testimony on
House Bill No. 2076

by

Terry Tiede

Kansas Insurance Department

House Bill No. 2076 was introduced at the request of the Insurance Department and is intended to not only simplify but remove a significant economic obstacle with respect to mergers or consolidations of mutual property and casualty insurance companies.

Under current law, as you will note from the existing language contained in subsection (a) of the bill any agreement of consolidation or merger must be submitted to a vote of the policyholders of each company. When the companies involved in the merger or consolidation are reasonably equal in size, market share or similar measurement, this is a reasonable and logical requirement. However, when one of the companies is much larger than the other, the merger or consolidation is almost always prompted by a concern of the management and board of the smaller company about its future financial viability. The interest of the larger company is more one of accommodation and a public relations type of concern about the impact on other Kansas insurers if a domestic competitor becomes insolvent or impaired and the policyholders become an innocent victim. Rarely, if ever, does the larger insurer have much to gain from acquisition of the assets, agency force or other elements of the smaller company. Therefore, the very significant expense involved in preparing, sending and processing the instruments required to conduct a vote of all policyholders is just that -- an expense. It cannot be construed as an investment because there is little opportunity for gain by the larger company either in the short or the long run. As a result, this single consideration can discourage what, from the public's perspective, would be desirable mergers and consolidations. When it does, it is the policyholders of the small insurer that will be adversely affected.

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Attachment #1

House Bill No. 2076 removes this obstacle by excluding the policyholder vote otherwise required if the surplus of the surviving company is 25 or more times greater than that of the nonsurvivor.

By doing so, we are by no means removing all protections and oversight. First, the management and boards of directors would both have to agree to the merger or consolidation and the conditions attached to it. The board of directors of a mutual insurer is elected by policyholders and management is controlled by the board so, in effect, the policyholders have a voice in all decisions. Second, House Bill No. 2076 only removes the need for a policyholder vote with respect to the surviving company. The policyholders of the company that is going to disappear as a result of the merger or consolidation would have greater reason to be concerned but they will still be required to vote. Finally, although it doesn't appear in the bill, a related section of the law governing mergers and consolidations requires the approval of the Commissioner of Insurance and one of the statutory conditions of his or her approval is that the merger or consolidation is not injurious to the interests of the policyholders and creditors of the companies involved.

Consequently, we believe House Bill No. 2076 will remove an unnecessary and expensive requirement of the merger or consolidation process in this narrowly defined situation without endangering the interests of any affected policyholders.

As indicated at the time introduction of this measure was requested in the House, a potential merger is already being considered that would be directly affected by enactment of this bill. Therefore, I not only hope it will receive a favorable recommendation by this committee but also that the other necessary legislative action on the bill can be expedited.



FARMERS ALLIANCE MUTUAL INSURANCE COMPANY

P.O. BOX 1401

McPHERSON, KANSAS 67460-1401

(316) 241-2200

H.B. 2076

I am Richard Wilborn, Vice-President of Government Affairs with the Alliance Insurance Companies. I am here today to talk briefly about House Bill 2076. To my knowledge this legislation is a nonpartisan noncontroversial bill. However, expediency in passing this legislation is important.

H.B. 2076 would amend the statute which pertains to merger or consolidation of mutual property and casualty insurance companies in Kansas. The bill would remove the provision of the statute requiring the surviving company to submit the merger or consolidation agreement to a vote of its policyholders, provided the surviving company has at least 25 times the surplus of the merging company. The intent of this bill is to remove any possible obstacle to the merger or consolidation of a scenario of which one company, the surviving company is much larger, in this case, at least 25 times larger, than the merged company. The change in law means that the merged company would still have to have the approval of its policyholders, only the surviving company would not have to obtain their policyholder's approval of the merger if the relationship between the two companies was nonmaterial.

We have a particular situation in the State of Kansas whereby a small mutual company located in Kansas has suffered losses from three years of very severe weather. The severe weather losses have significantly impacted the financial well-being of this company. Since mutual companies do not have access to outside capital and can only increase their net

TRUST YOUR FUTURE TO A PROVEN PAST.

ALLIANCE COMPANIES

Farmers Alliance Mutual Insurance Co.

Alliance Insurance Co., Inc.

Alliance Indemnity Co.

Blakely Crop Hail, Inc.

North Central Crop Insurance, Inc.

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Attachment #2*

worth through retained profits, the large operating losses in the company the last three years as a result of storms have deteriorated their ability to provide adequate protection for the policyholders.

The management and board of directors of this company have approached the Farmers Alliance Mutual Insurance Company and requested we allow them to merge into our company, and thus provide the necessary protection for their policyholders.

We are willing to accommodate their request, we have verbally agreed to continue to provide employment for the majority of their employees. Our purpose in doing this is to contribute to the betterment of the image of our industry in Kansas rather than have a Kansas domestic insurer and their policyholders faced with insolvency. To be more specific about the financial relationship, the Farmers Alliance Mutual Insurance Company has approximately 140,000 policyholders; written premium of approximately \$100,000,000; policyholders equity (net worth) of \$54,000,000; and assets of \$145,000,000. In comparison, the company requesting the merger has approximately 12,000 policyholders, written premium of \$3,000,000; policyholders equity of \$400,000; and assets of \$1.9 million.

The merger of this company into the Farmers Alliance Mutual Insurance Company will have no material impact on our operations, nor our financial stability afforded to our policyholders. H.B. 2706 will allow us to consummate the merger without the approval of the policyholders of the Farmers Alliance Mutual Insurance Company. Providing notice to our policyholders and their return postage for the proxy could cost in excess of \$80,000. Since it is a nonmaterial transaction, this expense of notification should be avoided, which is what House Bill 2706 does.

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The expediency is necessary, as the merger must occur before a major hail storm, which could push this small mutual over the threshold into bankruptcy. It is therefore necessary to place this bill on the Governor's desk as quickly as possible. Please do whatever you can to help this happen. You will be doing a service to the policyholders of this small mutual company as well as contribute to the continued employment for their employees. Thank you.

Richard E. Wilborn

2-14-03
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SUBSTITUTE FOR SENATE BILL NO. 179

By Committee on Financial Institutions and Insurance

AN ACT concerning trust companies; trust service offices; authorization and regulation.

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

Section 1. It shall be unlawful for any trust company to establish and operate any trust service office or relocate any existing trust service office except as provided in this act:

(a) For purposes of this section, the term "trust service office" means any office, agency or other place of business located within this state other than the place of business specified in the trust company's certificate of authority, at which the powers granted to trust companies under K.S.A. 9-2103 and amendments thereto are exercised. Trust service offices shall not be authorized to exercise the powers granted by subsection (h) of K.S.A. 9-2103 and amendments thereto. A trust service office shall not include a trust service desk established pursuant to subsection (d)(1) of K.S.A. 9-2107 and amendments thereto;

(b) after first applying for and obtaining the approval of the state banking board, one or more trust service offices may be established and operated anywhere within this state by a trust company incorporated under the laws of this state;

(c) an application to establish and operate a trust service office or to relocate an existing trust service office shall be in such form and contain such information as rules and regulations of the state bank commissioner, adopted pursuant to K.S.A. 9-1713 and amendments thereto provide;

(d) the application shall include an affidavit of publication of notice that applicant trust company intends to file an application to establish a trust service office or relocate an existing trust service office. The notice shall be

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published in a newspaper of general circulation in the county where the applicant trust company proposes to locate the trust service office. The notice shall be in the form prescribed by the state banking board and at a minimum shall contain the name and address of the applicant trust company, the location of the proposed trust service office, a solicitation for written comments concerning the proposed trust service office, be submitted to the state banking board, and provide for a comment period of not less than 10 days prior to the board's final consideration of the application;

(e) upon receipt of an application meeting the above requirements, if there is any written objection to the application filed with the board, within 60 days after receipt of the application, the state banking board shall hold a hearing in the county in which the applicant trust company seeks to establish and operate a trust service office. If there is no written objection filed with the board within the time period specified under subsection (d), the board may hold a hearing on the application in such county. Notice of the time, date and place of such hearing if one is to be held shall be published in a newspaper of general circulation in such county by the trust company seeking to establish and operate the trust service office not less than 10 or more than 30 days prior to the date of the hearing, and an affidavit of publication thereof shall be filed with the commissioner. Not less than 10 days or more than 30 days prior to any such date of the hearing, the commissioner shall give notice of the time, date and place of such hearing by registered or certified mail to all banks, national banking associations and trust companies having their principal place of business, branch banks or trust service offices in the county wherein the applicant trust company seeks to locate a trust service office. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the board in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such

hearing, the transcript shall be filed in the office of the commissioner and copies shall be furnished to the members of the state banking board not less than 14 days prior to the meeting of the board at which the application will be considered;

(f) The state banking board shall approve or disapprove the application within 90 days after consideration of the application and the evidence gathered during the board's investigation. If the board finds that:

(1) There is or will be at the time the trust service office is opened the need for same in the community to be served by it;

(2) there is a reasonable probability of usefulness and success of the proposed trust service office;

(3) the applicant trust company's financial history and condition is sound; and

(4) the proposed trust service office can be established without undue injury to ^{property} ~~property~~ conducted existing banks, national banking associations and trust companies, the application shall be granted, otherwise, the application shall be denied.

(g) Any final action of the board approving or disapproving an application shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions upon the petition of any adversely affected or aggrieved person who appeared and offered evidence at the hearing upon the application.

Sec. 2. A trust company making application to the state banking board for approval of a trust service office shall pay to the state bank commissioner a fee, in an amount established by rules and regulations adopted by the commissioner, to defray the expenses of the board, commissioner or other designees in the examination and investigation of the application. The commissioner shall remit all amounts received under this section to the state treasurer who shall deposit the same to a separate account in the state treasury for each application. The moneys in each such account shall be used only to pay the expenses of

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the board, commissioner or other designees in the examination and investigation of the application to which it relates and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 3. Whenever the state bank commissioner shall determine that any trust company domiciled in this state has established a trust service office in violation of the laws governing the operation of such trust company, the commissioner shall give written notice to the trust company of such determination. Within 15 days after receipt of such notification by the trust company, the trust company shall have the right to appeal in writing to the state banking board from the commissioner's determination, and thereupon the board shall fix a date for hearing, which hearing shall be held within 30 days from the date of such appeal and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. At such hearing the board shall hear all matters relevant to the commissioner's determination and shall approve or disapprove the commissioner's determination, and the decision of the board shall be final and conclusive. If the trust company does not appeal to the state banking board from the commissioner's determination or if an appeal is made and the commissioner's determination is approved by the board, the commissioner may proceed as provided in K.S.A. 9-1714 and amendments thereto, until such time that commissioner shall determine that the trust company has established its trust service office in the manner required under the laws governing the operation of such trust company.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

**TESTIMONY FOR STEPHEN A. ENGLISH
IN FAVOR OF SENATE BILL 179
before
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
February 9, 1993**

My name is Stephen A. English. I reside at 204 Warren Way, Arkansas City, Kansas. I am President and a substantial owner of stock of The Trust Company of Kansas, headquartered in Wichita, Kansas. I come before this committee to speak in favor of the amended Senate Bill 179.

The Trust Company of Kansas was the first independent trust company to be chartered after the amendments to the Kansas Statutes pertaining to trust companies were enacted by the 1989 Kansas legislature. We received our charter in June of 1990. We are currently managing trust assets of approximately \$72 million. For fiscal year 1992, after being in operation for less than three years, The Trust Company of Kansas posted an operating profit for the year.

The Trust Company of Kansas is a trust company in the truest sense of the word. We do not accept deposits. Nor do we make any loans whatsoever. Instead, our business is based entirely upon exercising the fiduciary powers granted to trust companies by Kansas law.

For example, we serve as executors for estates. In that capacity, we are charged with locating the assets of the estate and then selling them or distributing them to the heirs as required by either Kansas law or the Will of the decedent.

We also serve as trustee for pension and profit sharing plans

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and IRA's for our customers. In that capacity, we are charged with collecting the contributions to the pension plan from the employers, investing those contributions, allocating the contributions to the various company employees, and making distributions to the beneficiaries of the plan as required by the pension plan documents.

We also serve as trustee for personal trusts. In that capacity, we are charged with investing and managing our client's property and then distributing the property to the beneficiaries named in the trust documents.

The trust business is a very personal business. In some cases, our clients are asking us to manage their entire life savings. As the name of our company implies, the relationships with our clients are built upon trust. While investing and accounting for assets can be done in a central location, we must have the ability to foster and maintain personal contacts with our clients if we are to provide them with the personalized service and attention that trust customers have come to expect over the years.

As President of a Kansas chartered trust company, the passage of this bill is imperative for trust companies because it will allow trust companies to (1) compete with all bank trust departments on a level-playing field and (2) offer Kansas consumers an additional local regulated source of trust services at a time when the traditional sources are shrinking due to the recent consolidation of Kansas banks and out-of-state acquisitions resulting from the state opening its borders to banks from

neighboring states last July.

The headline from the January 20, 1993 article from the American Banker reads "Kansas Bankers Bracing for Tornado of Takeovers". It speaks to the issue of which banks are being bought and by whom. It quotes sources which indicate that the Missouri banking companies' takeovers of Kansas banks have only begun to "dance across the prairie". The Kansas consumer needs a stable, regulated provider of trust services when bank takeovers occur.

As most of you probably know, Senate Bill 179 was introduced last week by Senator Rock. The original Bill was drafted by Daryl Craft. Mr. Craft is the president of the Guardian Trust Company, another independent trust company which is headquartered in Topeka. Mr. Craft is the immediate past president of the Kansas Bankers Association's Trust Division.

After the Bill was introduced, we received word that the Kansas Bank Commissioners Office, while it supported the concept of trust companies being allowed to establish trust service offices, had some problems with the mechanics of Senate Bill 179 as originally proposed. In response to the Commissioner's concerns, last Thursday, Mr. Craft, along with Martin Ufford, who is the general counsel for The Trust Company of Kansas, met with Deputy Banking Commissioner Judy Stork. The three of them working together developed the language which constitutes the amendments to Senate Bill 179 that are presently before you.

Although the wording of the amendments is substantially different from the Bill as originally proposed, the effects of the

amendments can be summarized simply as follows:

First, the amendments require the establishment of a trust service office to be approved by the State Banking Board as opposed to the Banking Commissioner as proposed in the original Bill. Most of the amendments to Senate Bill 179 relate to the procedures for obtaining the Banking Board's approval and these procedure are substantially the same as the procedures banks must follow to get approval for opening a branch office location as provided in K.S.A. 9-1111.

Second, the powers granted to trust service offices under the amendments to Senate Bill 179 are restricted to those powers identified under K.S.A. 9-2103 pertaining to trust companies with the exception that trust service offices will not have the power to loan money as authorized under K.S.A. 9-2103(h). The Bank Commissioner's Office felt it would be easier for them to monitor and examine the functions of trust service offices if the powers of those offices under the proposed legislation would be consistent with the powers granted to trust companies under K.S.A. 9-2103 as opposed to the expression of powers as stated in the original Bill.

I am testifying in support of this Bill today because The

Trust Company of Kansas currently finds itself in a situation that was probably unforeseen by the legislature at the time it enacted K.S.A. 9-2107 in 1989. That statute allows independent trust companies to enter into a contract with a commercial bank whereby the trust company will be substituted for the bank's trust department as to all accounts for which the bank trust department serves in any fiduciary capacity.

In the summer of 1991, The Trust Company of Kansas was the first trust company in this state to enter into such an agreement. We entered into a trustee substitution agreement with Lawrence National Bank in August of 1991. After following the procedures required by K.S.A. 9-2107, The Trust Company of Kansas succeeded to the powers of Lawrence National Bank for all of the approximately 135 trust accounts that the trust department of that bank was managing at the time the agreement became effective. Pursuant to that agreement, The Trust Company of Kansas established a trust service desk on the premises of Lawrence National Bank and we had two full time employees servicing the 135-150 accounts that were being managed under the trustee substitution agreement. However, in December of 1991 the unforeseen occurred. The owner of Lawrence National Bank passed away and Lawrence National Bank was subsequently sold to the owner of the First National Bank of Lawrence headquartered in Kansas City. The First National Bank of Lawrence was subsequently sold to Mercantile Bank out of St. Louis, Missouri in the summer of 1992. Last July, just before the sale to First National Bank became effective, The Trust Company of Kansas

was notified that Lawrence National Bank desired to terminate the trustee substitution agreement since First National Bank had an existing trust department. Without The Trust Company of Kansas' involvement, the trust customers would have experienced three different institutions managing their financial assets in less than a year. That's destabilizing for the Kansas consumer.

After the trustee substitution agreement with Lawrence National Bank was terminated last summer we were required to vacate the trust service desk located on the premises of Lawrence National Bank and remove our two employees to a rental office located off the Bank's premises in Lawrence, Kansas. At approximately the same time the Lawrence National Bank terminated our relationship and trust service desk, Attorney General Opinion No. 92-100 was issued by Attorney General Stephen's office on July 28, 1992. This opinion concluded that trust companies do not have the authority to establish branch offices. Thus, suddenly on August 1, 1992 The Trust Company found itself in the position of having to service approximately 150 customers located in the Lawrence area under circumstances where our Trustee Substitution Agreement had been terminated and in the face of an Attorney General Opinion which concluded we did not have the authority to establish a satellite office location to service these customers on the personal basis that is so necessary for the successful operation of our business.

The amendments to Senate Bill 179 will enable The Trust Company of Kansas to continue to service its Lawrence customers, and to expand elsewhere when we are ready to undertake that step in

the same manner as banks which already have the power to branch and establish satellite trust department locations in accordance with Kansas law. The amendments to Senate Bill 179 do not grant to trust companies any additional powers or authorities than what they already have. In fact, the amendments to Senate Bill 179 specifically provide trust companies do not have the power to make loans in their trust service office locations. If trust companies desire to establish trust services offices in other locations, they have to go through the same notification and hearing procedures that banks currently must go through to establish branch offices. In addition, the State Banking Board must make the same findings to authorize the establishment of trust service offices that the Banking Board must find before it can authorize banks to establish branch locations namely:

1. That there is a need for the trust service office in the community to be served by it;
2. There is a reasonable possibility of the usefulness and success of the proposed trust service office;
3. The applicant trust company's financial history and condition is sound; and
4. The proposed trust service office can be established without undue injury to properly conducted existing banks and trust companies.

In short, the amendments to Senate Bill 179 will help to fill in an unforeseen gap in the 1989 Legislation pertaining to trust companies and will enable trust companies to service Kansas customers throughout the state on the same basis that bank trust departments currently are able to service their customers.

Earlier this legislative session, this Committee favorably passed on Senate Bill 35 which authorizes banks to act as a "contracting trustee" in the same manner as we did with Lawrence National Bank. That role was previously reserved for trust companies. Trust companies did not object to the bill even though it authorizes additional competition to trust companies. The bill does create, however, an imbalance of power in that, under current law, banks can open independent offices or "branches", while trust companies are not specifically given that authority. This amended bill before you gives trust companies the same rights that bank trust departments have, thereby rectifying that inequity.

Who will speak against this bill? Only those that do not want a level playing field or those representing out-of-state interests. We do not ask for more powers than banks have relating to the establishment of trust offices. We only ask that we do not be placed at a competitive disadvantage.

The Trust Company of Kansas wants the same right to establish local offices to serve Kansas consumers as banks have. Being a Kansas chartered business, we believe Kansas consumers will best be served by having the right to select a Kansas company. To deny us that right to compete on an equal footing is to favor both the big and out-of-state banking powers.

We believe the success of The Trust Company of Kansas in the past three years has demonstrated the usefulness and viability of independent trust companies as envisioned by the Kansas legislature when it passed the 1989 statutes pertaining to the establishment of

independent trust companies. The proposed amendments to Senate Bill 179 will enable my company as well as other independent trust companies to continue to grow and offer their services to Kansas customers throughout the state.

I urge you to adopt the amendments to Senate Bill 179 and I will be happy to answer any questions you may have at this time. Thank you for giving me the opportunity to speak with you this morning.

Encl.: American Banker article

TO: All KS Banks

COMMUNITY BANKING

ACQUISITIONS

Kansas Bankers Bracing for a Tornado of Takeovers

By ROBERT B. COX

With a blend of hope and horror, Kansas bankers have watched large Missouri banking companies establish beachheads in the Kansas City area since the state opened its borders to banks in neighboring states last July.

But the tornado of merger activity has only begun its dance across the prairie.

"It's starting to move westward," said Matt Finn, bank analyst at Burns, Pauli & Co., St. Louis.

Bankers and industry experts are bracing for a flurry of consolidation to hit Wichita, the state's largest city. "Wichita will be the next stage for acquisition activity," said Jerry Swords, president of Swords & Associates, a bank consulting firm in Kansas City, Mo.

Besides being the headquarters of the Sunflower State's largest banking company, Fourth Financial Corp., Wichita is home to a number of medium-size and smaller institutions.

With about a dozen independent banks controlling more than \$3 billion in assets, it is no

wonder that the winds of contention appear to be blowing in the city.

The state opened its borders to banks in neighboring states last July.

"There has been no acquisition of a Wichita bank by an out-of-state holding company thus far — only endless speculation," said James Maag, senior vice president of the Kansas Bankers Association.

The possibility that an out-of-state banking company might buy Wichita franchises has not been lost on the stock market.

Fourth Financial, the only Wichita bank that is publicly traded, has watched its stock climb from 148% of tangible book value a little over a year ago, to 201% today.

The list of likely takeover candidates is long.

The second largest bank in Wichita is First National Bank, with about \$1 billion in assets.

The bank's parent, First Bancorp of Kansas, said it would acquire Kansas State Financial Corp., the holding company of the \$380 million-asset Kansas State Bank.

The merger would make First Bancorp, a privately-owned bank controlled by the Chandler family, a \$1.3 billion-asset institution, with a one-third share of the city's deposits.

Union National Bank of Wichita, with \$530 million in assets, is the city's third-largest bank. It controls just over 10% of the deposit share.

"First National and Union National are very definitely likely acquisition targets," said Mr. Swords, the banking consultant.

Fourth-largest in size is Emprise Bank, which has \$270 million in assets — 8% of the deposit share — and is controlled by the Michaelis family and the Sierra Petroleum Co.

Also mentioned as possible "fill in" acquisitions are some of the smaller banks in Wichita. Together, they hold about \$300 million in assets.

Among them: Twin Lakes Bank and Trust, Southwest National Bank, Chisholm Trail State Bank, City Bank and Trust Co., American National Bank, and Garden Plain State Bank.

"Wichita will be the next stage for ac- quisition activity."

Jerry Swords
Swords & Associates

Because of state banking laws, only banks in Missouri, Oklahoma, Nebraska, Arkansas, Iowa, and Colorado are eligible to acquire Kansas institutions.

In the Market to Buy

The most likely suitors, say industry observers, are banking companies such as Mercantile Bancorp., Boatmen's Bancshares, and Mark Twain Bancshares Inc., all in St. Louis. Other likely suitors are Commerce Bancshares Inc. and United Missouri Bancshares, both of Kansas City. Also mentioned as a possible acquirer is FirstTier Financial Corp., Omaha.

"For the Missouri bank holding companies, Wichita is a logical extension of their market," said Mr. Finn of Burns Pauli.

United Missouri, Commerce, and Mercantile have bought banks in the Kansas City area. And all the Missouri banks have at some time stated an interest in acquiring Kansas banks.

Whether Wichita bankers would sell to out-of-state holding companies is unclear. First National Bank, for example, has been owned by the Chandler family for four generations. "It is our desire to remain independent," said Charles Chandler, president of First Bancorp.

Nevertheless, said Mr. Swords, the bank consultant, "they will all think about selling," when approached by someone with enough money.

Over, please

	A	B Interstate	Acquisitions	D
1				
2	<i>(Asset size based on first announcement of purchase--not at time of approval.)</i>			
3	Bank	Acquired	Assets	Other branch locations
4			(\$000)	
5	United Missouri	Security St. Great Bend	76,746	Hudson
6		Russell State	77,457	Luray,
7		Citz. St., Manhattan	117,551	
8		Highland Park, Topeka	107,575	
9		North Plaza, Topeka	46,575	
10		NBA, Salina	111,612	
11		Overland Park St.	180,136	
12		Commercial National, KC	355,843	Overland Park
13		City Ntl, Atchison	56,712	
14		First Bank, Concordia	78,221	Glasco
15		Security St., Ft. Scott	46,412	
16		Farmers Ntl, Abilene	55,197	
17	TOTAL		1,310,037	
18				
19	Commerce, KC	First Ntl, Bonner Springs	12,851	
20		Manufact. St. Leavenworth	70,557	
21		Lenexa National	27,942	
22		Union Ntl, Manhattan	151,582	
23	TOTAL		262,932	
24				
25	Mercantile	Mid American, Overland P	334,413	Roeland Park
26		Johnson Co, Prairie Vill	215,399	
27		Merchants Ntl, Topeka	246,322	
28		First Ntl. Lawrence	146,280	
29		Lawrence Ntl.	61,886	
30	TOTAL		1,004,300	
31				
32	Mark Twain	First Ntl., Shawnee	57,600	
33				
34	Frms St. Superior NE	Jewell Co., Mankato	25,580	
35		Tipton State, Tipton	6,658	
36		Traders State, Glen Elder	14,817	
37	TOTAL		47,055	
38				
39	Country Club Bank	Leavenworth National	74,088	
40				
41	Greentop, Inc Central			
42	City, NE	First Ntl. Abilene	52,592	
43				
44	Total KS acquisitions by out of state--		2,808,604	
45	////////////////////////////////////			
46	KS Banks making out of state acquisitions			
47				
48	Fourth Financial	Sooner Federal, Tulsa	360,000	9 branches in Tulsa
49		Fourth Ntl., Tulsa	342,300	
50		Southern Ntl., Tulsa	55,300	
51		Guaranty Bankcorp.	80,000	BANK IV OK 17 locations
52		Bank of Woodward	116,680	
53		Cimarron Bank, Waukomis	15,981	
54	TOTAL		970,261	
55				
56	First Bancorp, Wich	Will Rogers, Okla. City	63,239	
57				
58	First Ntl, Dodge City	Metro Bank, Broken Arr.	37,429	
59				
60	Home Ntl, Ark City	First Ntl, Ponca City	113,189	
61		American Ntl, merged		
62	Total out-of-state acquisitns by KS banks		1,184,118	

TESTIMONY OF W. NEWTON MALE
IN FAVOR OF AMENDED SENATE BILL 179 BEFORE
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
February 9, 1993

Today I come to speak in favor of the amended bill before you relating to the authorization and supervision of trust service offices by Kansas chartered trust companies.

I bring the perspective of: 1) a former member of the House of Representatives; 2) a former Kansas Bank Commissioner; and 3) chairman and president of an independent community-oriented bank in Augusta, Kansas. In addition, I hold the position as the President-elect for the Kansas Bankers Association. The testimony given is my own and should not be construed as representing the view of the Kansas Bankers Association.

Prairie State Bank in Augusta, Kansas, does not operate a trust department within the bank. Our primary focus has been in the traditional services of banking. The bank's resources have been dedicated to providing our customers with the finest of products and services at competitive prices.

The original Trust Company Act was passed by the Legislature while I was Kansas Bank Commissioner in 1989. I was in support of the concept as commissioner and as a Kansas community banker because it afforded the banks and the consumer a new source for trust services. When my customers are in need of trust services, I have no hesitation in recommending the services of a trust company which is regulated by the Kansas Banking Department.

Before the Trust Company Act, I recommended my customers use the trust services of a trust department of a large bank. However, many of those banks have become my competition since branch banking was introduced. As an independent Kansas chartered bank, it does not make good business sense to recommend to my best customers that they use the services of a competitor, when the services of an independent trust company are available. In Augusta, we would welcome the opening of a trust service office if a trust company recognized a need for such in our community. The trust business demands a high level of personalized service which is best delivered as close to the customer as possible.

Additionally, many of the larger banks which have trust departments are being purchased by out-of-state banks who eventually will take the decision-making authority of the trust department to the city of their corporate headquarters, wherever that might be.

As a handful of large banks purchase Kansas banks with trust departments, Kansas consumers have fewer choices about where they will receive their trust services and who will be making the decisions affecting their trusts after they are gone.

Earlier in this legislative session, Senate Bill 35 was favorably passed out of this committee. It permits a bank to act as "contracting trustee" with

Senate F/41 2/9/93
Attachment #5

Page 2

W. Newton Male
Senate Testimony
February 9, 1993

other financial institutions. This is a role previously reserved for Kansas trust companies.

It would seem fair and equitable to allow Kansas chartered trust companies to open trust service offices in Kansas to service their clients throughout the state much like bank branching in order to effectively compete for the services of the Kansas consumer.

The amended bill before you gives a Kansas chartered entity the opportunity to compete more effectively with the new out-of-state competition, thus expanding the choices available to the Kansas consumer. I urge you to vote in favor of the bill.

F141 2/9/93

5-2

The Guardian Trust Company

707 Quincy, STE 200
Topeka, Kansas 66603

Daryl V. Craft
President

Hearing on Senate Bill 179 Before the Senate Financial Institutions and Insurance Committee

Good Morning. My name is Daryl Craft. I am a co-founder and President of The Guardian Trust Company in Topeka. Guardian is an independent trust company which was chartered in 1991 by the Kansas Banking Department.

I am here this morning to speak in favor of Senate Bill 179. Independent trust companies provide fiduciary services to individuals, corporations and other financial institutions. In Kansas, we are regulated and examined by the Banking Department. Trust companies provide much the same service as trust departments in banks.

At the current time, an inequity exists in the Kansas statutes which favors trust departments in banks. Banks have the power to branch and to offer trust services through those branches. Trust companies do not currently have a similar power. Senate Bill 179 was introduced to correct this inequity. The bill creates for trust companies a process very similar to that which a bank must complete to obtain approval for a branch. Approval to open a trust service office must be given by the Kansas Banking Board, and will be given only after investigation and consideration of the application.

With the current wave of out of state acquisitions of Kansas financial institutions expected to continue, it is almost certain that some Kansas communities will be left without a Kansas owned provider of trust services. Independent trust companies are not likely to be drawn into the acquisition mania, and will become an increasingly important source of trust services for Kansas residents. Passage of Senate Bill 179 will help make that so.

Thank you.

Senate 7/21 2/9/92
Attachment #6

COMMENTS BEFORE THE KANSAS SENATE
FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
TUESDAY, FEBRUARY 9, 1993
9:00 A.M.

BY
CLIFFORD W. SHINSKI, PRESIDENT
THE INVESTORS SERVICES TRUST COMPANY
OVERLAND PARK, KANSAS

I am Clifford W. Shinski, President of The Investors Services Trust Company, a non-depository trust company, chartered May 31, 1989. The Investors Services Trust Company currently has 90 clients and over \$110 million dollars in client fiduciary assets.

I am here to ask your support for Substitute Senate Bill 179 which permits trust companies located in the State of Kansas to have additional trust service offices with the approval of, and control by, the Kansas Banking Department.

Independent trust companies are still in their infancy in the State of Kansas. The four independently owned trust companies were chartered by, and are managed by trust professionals. These four trust companies currently have approximately \$300 million dollars in client fiduciary assets. Four years ago there no such trust companies, nor any assets being serviced by them or jobs created within the State of Kansas by them. I believe that the growth over the last four years demonstrates both desire for, and indicates the need for, such personal trust services within the State of Kansas.

Like commercial banks, trust companies are chartered by, and regulated by the Kansas Banking Department.

As has been mentioned, clients come to us for a high level of personal services. The competition is fierce for fiduciary assets within the State of Kansas, and across the country today. The competition ranges from insurance companies, mutual funds, brokerage firms, as well as, existing commercial banks with trust powers, and independent trust companies.

In our situation, approximately one-third of our clients are located in Wichita and in the surrounding communities. We feel, that in the future, we would be at a competitive disadvantage if we were unable to create trust service offices in geographic areas where the number of clients, and the growth trend of new clients might clearly warrant such a facility. We are not asking for special consideration, but rather the same ability to create servicing facilities as will exist with commercial banks who offer their clients trust services.

Once again, I would ask that you support Substitute Senate Bill 179. I feel that it is important for independent trust companies to be able to provide geographically diverse, trust service facilities if the demands of their client base warrant it. It is also an important factor in stimulating competition among the providers of trust services within the State. Increased competition generally benefits the consumer in the long run by providing a variety of services, as well as, higher quality.

Thank you for the opportunity to appear before you today. I would be glad to respond any questions which you might have.

Senate 71 & 1 2/9/93
Attachment # 7

Comments Regarding Senate Bill Number 179
February 9, 1993

Presented on behalf of The Columbian Trust Company
by: Bryan R. LaGree
McCaffree Financial Corporation
4701 W. 110th St.
Overland Park, Kansas 66211
Phone: (913) 491-1061
Fax: (913) 491-1325

- I. The Columbian Trust Company ("Columbian Trust") opposes Senate Bill Number 179 as it is presently drafted. Columbian Trust strongly supports the concept of allowing trust companies to branch but believes that this Bill, as drafted, is unfair.
- II. Columbian Trust is unique and very different from other trust companies in the state of Kansas.
 - A. Columbian Trust is the oldest existing trust company in the state. Chartered in 1927 as the United Trust Company, the operating longevity of Columbian Trust is over ten times that of any other trust company in Kansas.
 - B. Columbian Trust does not presently accept deposits of public funds. Thus, no public monies are at risk through the operation of business.
 - C. Columbian Trust does not presently accept personal or business trusts.
 - D. Columbian Trust lends money for the citizens of Kansas to purchase single family residences. In 1992, Columbian Trust loaned over Eighty Million Dollars - most of which to first time home buyers.
 - E. Despite its unique product and service, Columbian Trust is very much a trust company. Trust companies began with companies like Columbian Trust.
- III. As now drafted, Senate Bill Number 179 will prevent Columbian Trust from advancing its business interests and will allow other trust companies greater freedom to advance their business opportunities.
 - A. This is the unfair result of excluding lending activities from branching.
 - B. Columbian Trust presently has a Loan Production Office in Topeka to service the needs of our customers in that metropolitan area. However, Loan

Production Offices are not the answer to the need of Columbian Trust to branch its lending operations.

- 1) Loan Production Offices are limited service facilities and presently face the prospect of further restrictions if the troublesome Senate Bill Number 36 becomes law as presently drafted. Senate Bill 179 will allow trust companies to branch their full service trust operations and Columbian Trust believes that it should be allowed to branch its full service lending operations.
- 2) Operating the lending operations in Loan Production Offices creates the potential for inconsistent regulation of Columbian Trust if one office operates as both a Loan Production Office and also provides trust services.

IV. Historically, trust companies like the Columbian Trust Company have had very broad powers and were allowed to branch.

- A. Columbian Trust was originally allowed to branch, lend money, take deposits, act as a surety, provide trust services, insure real property titles and a number of other activities.
- B. Columbian Trust is not asking permission for something new. Columbian Trust is merely asking permission to continue its historic business operation without new and unfair restrictions.
- C. The owners of Columbian Trust were intimately involved in the creation and passage of the Trust Company Act in Kansas. It was their understanding that the revisor of statutes was to match the name "Trust Company" with "Banks" in the statutes so that the provisions would be consistent. This would mean that K.S.A. 9-1111 would include trust companies and would give them the power to branch under the supervision of the Bank Commissioner.

V. Alternatives to Senate Bill 179 as presently drafted.

- A. Eliminate the unfair exclusion of lending operations from the language of the Bill. This would allow all trust companies to branch their services under the supervision of the Bank Commissioner.
- B. Amend K.S.A. Section 9-1111 to include trust companies. This would eliminate the need for a separate statute.

- C. Exempt those trust companies chartered before the passage of the Trust Company Act from the restrictions of Senate Bill 179 thereby allowing Columbian Trust to continue its history of lending.
- D. Create a provision allowing trust companies which do not accept public deposits or public trusts to branch their services and limit the restrictions on branching to those trust companies with public monies at risk.

VI. Conclusion

The Columbian Trust Company opposes Senate Bill 179 as it is presently drafted. The Bill selectively favors certain trust companies to the detriment of Columbian Trust. Excluding lending activities from the branching powers would harm the nature of Columbian Trust's business and hamper a service that Columbian Trust has been providing to the citizen's of Kansas since 1927.