

Approved: February 16, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:12 a.m. on February 15, 1993 in Room 529-S of the Capitol.

Members present: Senators Hensley, Lawrence, Lee, Petty, Praeger, and Steffes.

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

Conferees appearing before the committee: Bryan LaGree, Columbian Trust Company
Carl McCaffree, McCaffree Financial Corporation
Judi Stork, Deputy Bank Commissioner

Others attending: See attached list

Senator Steffes made a motion, seconded by Senator Praeger, to approve the minutes of the meeting of February 12, 1993 as submitted. The motion carried.

The chairman explained to the committee that **SB 227**, scheduled for hearing at today's meeting is an extension of a mandate in the area of health care, allowing adoptive parents an increased period of time to cover an adoptive child on their insurance. K.S.A. 40-2248 passed in 1990 requires that any bill establishing new mandates must be accompanied by an impact study, the issue being projected cost. None of the sponsors of this legislation were present at today's meeting. The chairman will speak with the sponsoring senators and the bill will be continued to a later date.

The hearing on **SB 179** was reopened. This bill was originally heard on February 9 and continued to today's meeting. Bryan LaGree, Columbian Trust Company, again appeared before the committee to state his company's position that, although generally in favor of the bill, they would like the language in **Sub.SB 179** on page 1, section 1 (a) amended to allow Columbian to continue its branch loan operations. (Attachment #1.) Mr. LaGree stated that Columbian Trust Company does not desire to become a bank, subject to banking regulations, since they receive no public money or deposits of any type.

Mr. McCaffree, McCaffree Financial Corporation, clarified that Columbian agreed in 1989 not to take deposits and only to make mortgage loans. In response to Senator Steffes' question, Mr. McCaffree stated that Columbian is regulated by the State Bank Commissioner and examined by a trust examiner as well as a commercial examiner and that since they take no deposits, no deposit insurance is necessary. Columbian is strictly in the loan business, principally home loans.

In response to Senator Lee's question, it was clarified that passage of **Sub.SB 179** would have no impact on loans made from Columbian's present location, but without an amendment, they cannot make loans at branches.

Judi Stork, Bank Department, stated that this legislation is an attempt to make trust company branching correspond with branch banking. Ms. Stork stated that of the 7 trust companies in Kansas, only one, Columbian, makes loans and the Banking Department would prefer that Columbian be grandfathered in to have lending powers at its main location as well as branches and that Columbian be the only trust company with lending powers at its branches. There being no further questions and no other conferees, the hearing on **SB 179** was closed.

Senator Lee made a motion to adopt Sub.SB 179. The motion was seconded by Senator Petty. The motion passed.

Senator Steffes made a motion to conceptually amend Sub. SB 179 to allow Columbian Trust Company to continue lending at branches but allow no other trust company to have the power to lend at any location. Senator Lawrence seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:12 a.m. on February 15, 1993.

Senator Lawrence made a motion, seconded by Senator Praeger to move **Sub. SB 179** favorably as amended. The motion carried.

The committee adjourned at 10:00 a.m.

The next meeting is scheduled for February 16, 1993.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2/15/93

[illegible]

Comments Regarding Senate Bill Number 179
February 9, 1993

Presented on behalf of The Columbian Trust Company
by: Bryan R. LaGree
McCaffree Financial Corporation
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Overland Park, Kansas 66211
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- 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

Senate 7/4/93
2/15/93
Attachment #1

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.

9-2103. Powers of trust companies. A trust company may exercise all powers necessary or incidental to carrying on a trust company business, including, without limitation, all powers conferred upon a business corporation by the Kansas corporation code of 1972, and amendments thereto, and also may exercise the following powers:

.....

.....

(h) If the trust company was organized and existed prior to the repeal of K.S.A. _____ in 1989 by the Kansas Trust Company Act, to loan money upon real estate, chattel, collateral or personal security; to execute and issue its notes, bonds or debentures payable at a future date, and to pledge any of its securities not in excess of 105% of the amount of such notes, bonds or debentures thus issued, except that no holder of securities in excess of the amount provided herein shall acquire any title or claim to such excess; to buy and sell all kinds of government, state, county, municipal and corporation bonds, and all kinds of negotiable and nonnegotiable paper, securities, and stocks except that

Senate 7141
2-15-93
1-4

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. ^{Except for trust companies organized and existing prior to the repeal of K.S.A. _____ in 1989,} 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

Senate 7141
2-15-93
1-5