

Approved: Jan 18, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson William Bryant at 3:30 p.m. on January 13, 1994 in Room 527-S of the Capitol.

All members were present except:

Committee staff present: William Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Jim Parrish, Securities Commission
John Smith, Credit Unions
Kathy Taylor, Kansas Bankers Assoc.

Chairman Bryant announced the decision to delay discussion and action on SB 393 until Tuesday, January 18, 1994.

Jim Parrish, Kansas Securities Commissioner, introduced and explained three proposals for amendments to the Kansas Securities Act (Attachment 1). These proposed amendments are considered cleanup bills, would have no fiscal impact, and have been approved by the Governor's Office. The proposed amendments would:

1. Fill a regulatory gap and bring state procedures on qualification offerings into conformity with federal practice and standard commercial practice.
2. Authorize agency participation in a centralized securities registration depository (electronically).
3. Would extend exempt status to securities issued by other foreign governments and entities.

Representative Helgerson moved for the introduction of these proposals into legislation. Representative Dawson seconded the motion. Motion carried.

Mr. Parrish reviewed the duties and responsibilities of the Securities Commission as it being a law enforcement agency and registering securities. Their agency promotes education against fraud, securities, and white collar crime. Kansas was the first state to pass a securities regulation law in 1911.

John Smith, Credit Union Department, presented proposed changes to the Kansas Credit Union Act (Attachment 2). Proposed amendments would:

1. Allow for establishment of credit unions with home offices in Kansas to establish facilities in another state.
2. Allow for establishment of credit unions with home offices in other states to establish facilities in Kansas.
3. Give the administrator the authority to require the credit union to establish plans and programs concerning the safety and soundness of the credit union.
4. Enable all credit unions to add additional places of business within the state.
5. Permit corporate credit unions to provide services to credit union service organizations or other related corporate entities without creating a block of votes in the corporate credit union for related entities.

Representative Helgerson moved for the introduction of these proposals into legislation. Representative Cox seconded the motion. The motion carried.

Kathy Taylor, Kansas Bankers Association, presented the following amendments for introduction into legislation:

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 527-S Statehouse, at 3:30 p.m. on January 13, 1994.

1. That safe deposit boxes may be forcibly opened in the event all lessees of the box are deceased (Attachment 3).
2. Regarding state moneys in that guaranty bonds in excess of that insured by FDIC be underwritten by an insurance company (Attachment 4).
3. Would bring into conformity with federal law the section dealing with unauthorized transactions (Attachment 5).
4. Three amendments dealing with Chapter 58 which would place it in agreement with Chapter 16 (Attachment 6).
5. Would eliminate portion of Chapter 58 which disallows a married person to create a lien or security interest upon personal property without the signed agreement of the other marriage partner (Attachment 7).

Representative Minor made a conceptual motion to introduce into legislation the proposals from the Kansas Bankers Association. Representative Gilbert seconded the motion. Motion carried.

The meeting adjourned at 4:05 p.m. The next meeting is scheduled for January 18, 1994.

GUEST LIST

COMMITTEE: House Financial Inst. Ins.

DATE: 1-13-93

[illegible]

Kansas Securities Commissioner

Proposal No. 1

BILL TITLE

Amendment to K.S.A. 17-1262(1)

BILL SUMMARY

This bill amends a current exemption under the Kansas Securities Act, K.S.A. 17-1262(1), which allows offers, but not sales, of securities for which a registration by coordination (K.S.A. 17-1257) has been filed (but is not yet effective) under both the federal Securities Act of 1933 and the state Act. The Act would extend this exemption for offers pursuant to registrations by qualification or notification (K.S.A. 17-1256 and 17-1258) filed only under the state Act if done by registered broker-dealers.

FISCAL IMPACT

This proposed amendment will have no discernible fiscal impact on this agency, other governmental agencies, or the general public.

POLICY IMPLICATIONS/BACKGROUND

Recent amendments to federal Regulation A and Regulation D, Rule 504, under the 1933 Securities Act will expand the use of exemptions at the federal level. Regulation A and Rule 504 exemptions are registered at the state level by qualification. The federal Regulation A exemption allows offers, but not sales, during the waiting period (after filing, but before effectiveness). It is standard commercial practice within the brokerage community to offer during the waiting period by means of a "red herring" or preliminary prospectus. This amendment fills a regulatory gap and brings state procedures on qualification offerings into conformity with federal practice and standard commercial practice.

IMPACT ON OTHER STATE AGENCIES

None.

*House F.S.D.
Attachment 1
Jan. 13, 1994*

17-1262. Exempt transactions. Except as expressly provided in this section, K.S.A. 17-1254, 17-1255, 17-1256, 17-1257, 17-1258, 17-1259 and 17-1260, and amendments thereto, shall not apply to any of the following transactions:

(a) Any isolated transaction, whether effected through a broker-dealer or not.

(b) Any nonissuer distribution by or through a registered broker-dealer of outstanding securities at a price reasonably related to the current market price of such securities, if Moody's manual, Standard & Poor's manual, or any recognized securities manual approved by the commissioner, contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations. If the commissioner finds that the sale of certain securities in this state under this exemption would work or tend to work a fraud on purchasers thereof, the commissioner may revoke the exemption provided by this subsection with respect to such securities by issuing an order to that effect and sending copies of such order to all registered broker-dealers.

(c) Any nonissuer transaction by a registered broker-dealer pursuant to an unsolicited order or offer to buy. The commissioner may require, by rules and regulations, that: (1) The customer acknowledge upon a specified form that the sale was unsolicited; and (2) a signed copy of each such form be preserved by the broker-dealer for a specified period.

(d) Any transactions in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

(e) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator; any transaction executed by a bona fide pledgee without any purpose of evading this act or any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests.

(f) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the investment company act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer or to a broker-dealer or underwriter.

(g) Any offer or sale of a preorganization certificate or subscription if: (1) No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber and no advertising has been published in connection with any such sale; (2) no payment is made by any subscriber; and (3) such certificate or subscription is expressly voidable by the subscriber until such subscriber has been notified of final acceptance or completion of the organization and until the securities subscribed for have been registered. The commissioner may require, by rules and regulations or by order, reports of sales under this exemption.

(h) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within 90 days of their issuance, if: (1) No commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state; or (2) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow the exemption within the next five full business days.

(i) Any offer (but not a sale) of a security ~~for which registration statements have been~~ filed under both this act and the securities act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act; if: (1) for such security

(j) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock.

(k) Any act incident to a class vote by stockholders, pursuant to the articles of incorporation, bylaws or applicable statute, on a merger, consolidation, reclassification of securities or sale of corporate assets in consideration of the issuance of securities of another corporation or any act incident to a plan of reorganization, approved by a majority of the stockholders of every corporation involved in such reorganization, in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash. The issuer of such securities must first file a notice specifying the term of the offer and such other information as the commissioner requires, and the commissioner by order may disallow this exemption within 30 days.

(l) The offer or sale of securities by an issuer that is a corporation, limited partnership or limited liability company formed under the laws of the state of Kansas, if: (1) The aggregate number of sales by the issuer in the twelve-month period ending on the date of the sale does not exceed 20 sales, except that until July 1, 1993, aggregate number of sales by a limited

; or (2) a registration statement for such security has been filed under K.S.A. 17-1256 or 17-1258 of this act, no stop order or emergency order issued pursuant to K.S.A. 17-1260 is in effect, and the offer is made on behalf of the issuer by a registered broker-dealer.

liability company shall not exceed 35; (2) the seller believes that the purchaser is purchasing for investment; (3) no commission nor other remuneration is paid or given, directly or indirectly, for soliciting the purchaser; and (4) neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following: (A) Any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio or (B) any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

In calculating the number of sales in a twelve-month period, sales made in violation of K.S.A. 17-1255, and amendments thereto, and sales exempt from registration under subsection (a) or (l) shall be taken into account. For purposes of the exemption in this subsection, a husband and wife shall be considered as one purchaser. A corporation, partnership, association, joint-stock company, trust or other unincorporated organization shall be considered as one purchaser unless it was organized for the purpose of acquiring the purchased securities. In such case each beneficial owner of equity interest or equity securities in the entity shall be considered a separate purchaser. The commissioner may withdraw this exemption or impose conditions upon its use.

(m) Any transaction pursuant to rules and regulations adopted by the commissioner for limited offerings which was adopted for the purpose of furthering the objectives of compatibility with federal exemptions and uniformity among the states.

(n) Any transaction pursuant to rules and regulations adopted by the commissioner concerning the offer or sale of an oil, gas or mining lease, fee or title if the commissioner finds that registration is not necessary or appropriate for the protection of investors.

(o) Any offer or sale by an investment company, as defined by K.S.A. 16-630, and amendments thereto, of its investment certificates.

(p) The offer or sale of a security, issued by Kansas Venture Capital, Inc., or its successors.

Kansas Securities Commissioner

Proposal No. 2

BILL TITLE

New section 17-1276 under the Kansas Securities Act

BILL SUMMARY

The proposed new section K.S.A. 17-1276 to the Kansas Securities Act is based on Section 420 of the Uniform Securities Act (1956), as amended. Various other sections of the existing Kansas Securities Act are also based on the Uniform Act. The new section would generally provide for cooperation with other regulatory agencies and organizations, and would enable greater uniformity, consistency and efficiency in the regulation of securities.

FISCAL IMPACT

The proposed new section may result in improved regulatory efficiency for this agency, other regulatory agencies and the regulated industry, however, no overall fiscal impact can be estimated at this time. The SRD system described below will require the use of micro-computers, however, these machines are already provided for in the current agency budget and information management plan.

POLICY IMPLICATIONS/BACKGROUND

The primary reason for this proposal is to authorize agency participation in a centralized securities registration depository (SRD). The SRD is being developed and implemented by the North American Securities Administrators Association (See subsection (b)(1) regarding a central depository for registration). The SRD will provide a computerized system to enable simultaneous electronic filings on a nation-wide basis among the state and federal securities agencies. The SRD is intended to facilitate uniformity and efficiency of securities registrations.

The other subsections of the proposed statute would be helpful for coordination of other activities through the North American Securities Administrators Association and other agencies. Coordinated and cooperative services should enhance the ability of the agency to protect investors and to provide for more uniform and consistent treatment of the regulated industry.

IMPACT ON OTHER KANSAS AGENCIES

None.

17-1276. Cooperation with other agencies. (a) To encourage uniform interpretation and administration of this act and effective securities regulation and enforcement, the Commissioner may cooperate with the securities agencies or administrators of other states, Canadian provinces or territories, or other countries, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Securities Investor Protection Corporation, any self regulatory organization, any national or international organization of securities officials or agencies, and any governmental law enforcement or regulatory agency.

(b) The cooperation authorized by this section includes, but is not limited to, the following:

- (1) establishing a central depository for registration under this act and for documents and fees required under this act. The Commissioner shall by rules and regulations establish procedures and requirements for filing documents and fees;
- (2) making a joint registration examination or enforcement investigation;
- (3) holding a joint administrative hearing;
- (4) filing and prosecuting a joint civil or administrative proceeding;
- (5) sharing and exchanging personnel;
- (6) sharing and exchanging information and documents subject to the restrictions of the Kansas open records act; and
- (7) formulating, in accordance with the Kansas administrative procedures act, regulations on matters such as statements of policy, guidelines, and interpretive opinions and releases.

Kansas Securities Commissioner

Proposal No. 3

BILL TITLE

Amendment to K.S.A. 17-1261(b)

BILL SUMMARY

This bill amends a current exemption under the Kansas Securities Act, K.S.A. 17-1261(b), which exempts securities issued or guaranteed by the Canadian government or any of its political subdivisions, agencies, or instrumentalities. The amendment would extend comparable exempt status to securities issued by other foreign governments and entities.

FISCAL IMPACT

This proposed amendment will have no discernible fiscal impact on this agency, other governmental agencies, or the general public.

POLICY IMPLICATIONS

Increasing globalization of securities markets have made debt and other securities offerings of foreign governmental issuers an increasingly attractive investment option. These investments are generally as creditworthy as Canadian securities, and there is no longer any valid rationale for limiting the exemption in K.S.A. 17-1261(b) to Canadian government securities. Almost all other states, except for five or six, have in substance incorporated the proposed amendment. The text is taken from the 1985 Uniform Securities Act as approved by the National Conference of Commissioners on Uniform State Laws.

IMPACT ON OTHER STATE AGENCIES

None

17-1261. Exempt securities. K.S.A. 17-1255 through 17-1260, inclusive, and amendments thereto, shall not apply to any of the following securities:

(a) Any security issued or guaranteed by the United States or by any state, territory or insular possession thereof, or by any political subdivision of any such state, territory or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing,

(c) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, credit union or trust company organized and supervised under the laws of this state except that the issuer of such security is subject to the supervision of the banking department, savings and loan department or credit union administrator of this state.

(d) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any savings and loan association organized under the laws of this state and authorized to do business in this state.

, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer, or guarantor.

(e) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state when such securities are sold by the issuer.

(f) Any security issued or guaranteed by any railroad, or public utility which is:

(1) Subject to the jurisdiction of the interstate commerce commission;

(2) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; or

(3) regulated by a governmental authority of the United States or any state in respect to the issuance or guarantee of the security.

(g) Any security as to which the commissioner by rule and regulation finds that registration is not necessary or appropriate for the protection of investors.

(h) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, fire protection, fire fighting or reformatory purposes, or as a chamber of commerce or trade or professional association if no part of the net earnings of such person inures to the benefit of any private stockholder. Before any such security shall be issued, such person shall first file with the commissioner an application for exemption, which application will contain such information and documents, including sales material, as the commissioner shall by rules and regulations prescribe and if the securities to be issued exceed the total amount of \$25,000 the application shall contain a copy of the security to be issued, along with an opinion of an attorney at law, who is admitted to practice in Kansas, to the effect that: (1) Such security is secured by a trust indenture pledging moneys or properties to secure such security, and such securities constitute a lien on the property; (2) the instruments guaranteeing such pledge or trust indenture are the lawful obligations of the issuing person; (3) such security is, in fact, an exempt security under this section. The commissioner shall issue a certificate of exemption to the applicant within 30 days after the filing of the application with the commissioner unless the commissioner, after reasonable notice to the applicant and a hearing on the application, finds that the sale of the securities covered in the application would violate any provision of this act or the act of

which this act is amendatory and enters an order denying a certificate of exemption. The commissioner may in the commissioner's discretion exempt any person from the licensing provisions of the Kansas securities act as regards broker-dealers and agents, if the commissioner finds that any such person is a stockholder or member of such nonprofit organization or corporation and is offering such securities only to stockholders or members of the nonprofit organization or corporation, or in the case of religious nonprofit organization or corporation to members of the same denomination or religious faith domiciled within the state of Kansas, and such person will receive no compensation therefor. Every person filing an application for exemption of such securities shall pay a filing fee of \$50.

(i) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal.

(j) Any securities issued in connection with an employee's stock purchase, savings, pension, profit-sharing or similar benefit plan, or a self-employed person's retirement plan.

(k) Any security evidencing membership in, or issued as a patronage dividend by, a cooperative association organized under the laws of this state exclusively for the purpose of conducting an agricultural, dairy, livestock or produce business, or selling, processing, storing, marketing or otherwise handling any agricultural, dairy, livestock or produce, and any activities incidental to these purposes.

(l) Any security issued by and representing an interest in or debt of, or evidencing membership in, or issued as a patronage dividend to residents or landowners of not to exceed five contiguous counties in Kansas by a cooperative association organized under the laws of this state exclusively for the purpose of conducting an agricultural, dairy, livestock or produce business, or selling, processing, storing, marketing, retailing, or otherwise handling any agricultural, dairy, livestock or produce, or farm supplies, and any activities incidental to these purposes.

(m) Securities constituting part of an issue, which, in whole or in part has been lawfully sold and distributed to the public in this or

any other state, when offered for resale in good faith and not directly or indirectly for the benefit of the issuer or for the direct or indirect purpose of promoting any scheme or enterprise having the effect of violating or evading any provisions of this act, except that this exemption shall not apply (1) where the authority to sell such securities has been prohibited or denied under the provisions of this act, or (2) where the sale of such securities in this state has been enjoined as provided in this act or (3) until there shall have been filed with the securities commissioner of Kansas by any registered broker-dealer a prospectus in such form as may be prescribed by the commissioner containing: (A) Latest available financial statement of the issuer; (B) management personnel; and (C) such other available information as the commissioner may require. The filing of the prospectus and its approval by the commissioner shall constitute the exemption herein provided. Any prospectus may be disapproved at any time, if after a reasonable notice and a hearing, the commissioner shall find that the further exemption of the securities would be fraudulent or tend to work imposition or fraud upon the purchaser thereof.

(n) Any annuity, gift annuity, charitable remainder unitrust, charitable remainder annuity trust, endowment contract, life income contract, or investment contract issued by the governing body of any four-year liberal arts college situated in the state of Kansas, and the provisions of K.S.A. 17-1254, and amendments thereto, shall not apply to any person in the issuance of such securities governed by this subsection.

(o) Any annuity, gift annuity, charitable remainder unitrust, charitable remainder annuity trust, endowment contract, life income contract or investment contract issued by the governing body of any nonprofit corporation or foundation organized under the laws of this state, for religious, charitable or educational purposes, or for the treatment and rehabilitation of children and adolescents, and which corporation or foundation is licensed by the secretary of social and rehabilitation services or secretary of health and environment, if such corporation or foundation has been in existence for more than five years and has fund balances in its endowment fund and unrestricted funds totaling together \$1,000,000 or more, and the provisions of K.S.A. 17-1254, and amendments thereto, shall not apply to any person in the

issuance of securities governed by this subsection.

(p) Any security issued by a bank holding company wholly or partially in exchange for the capital stock of a bank that is, or will become upon consummation of such exchange, a subsidiary of such bank holding company; or any security issued by a savings and loan holding company wholly or partially in exchange for the capital stock of an insured institution that is, or will become upon consummation of such exchange, a subsidiary of such savings and loan holding company. As used in this subsection, "bank," "bank holding company" and "subsidiary" shall have the same meanings as are set forth in the federal bank holding company act of 1956, as amended and "savings and loan holding company" and "insured institution" shall have the same meanings as are set forth in section 408 of the national housing act, as amended.

History: L. 1957, ch. 145, § 10; L. 1959, ch. 115, § 1; L. 1967, ch. 121, § 2; L. 1968, ch. 386, § 2; L. 1969, ch. 120, § 1; L. 1970, ch. 83, § 1; L. 1972, ch. 57, § 4; L. 1975, ch. 130, § 1; L. 1979, ch. 61, § 4; L. 1981, ch. 98, § 2; L. 1981, ch. 90, § 16; L. 1982, ch. 98, § 8; L. 1982, ch. 97, § 1; L. 1982, ch. 99, § 1; L. 1990, ch. 81, § 1; July 1.

Law Review and Bar Journal References:

"Private Financing For Small Businesses", Charles D. Lee, 58 J.K.B.A. No. 9, 15, 19 (1989).

CASE ANNOTATIONS

2. Cited; directors' strict liability to purchasers of unregistered securities sold in violation of 17-1268 noted; must prove absence of knowledge. *Taylor v. Perdition Minerals Group, Ltd.*, 244 K. 126, 129, 766 P.2d 805 (1988).

PROPOSED AMENDMENTS TO THE KANSAS CREDIT UNION ACT

EXECUTIVE SUMMARY

The Kansas State Department of Credit Unions is proposing several amendments to the Kansas Credit Union Act. The proposed amendments are intended to provide the administrator with clear statutory authority to promulgate regulations covering all aspects of the Act. Another proposed change gives the administrator the authority to require credit unions to establish disaster recovery and loss prevention plans as well as other plans or programs affecting the safety and soundness of credit unions.

Finally the proposed federal conformity provision would also authorize credit unions, with the approval of the administrator, to establish disaster recovery locations or other facilities outside the State of Kansas. This provision would permit Kansas credit unions to be competitive with federally chartered credit unions in participating in shared service centers to serve their members.

Specifically, the proposed changes are as follows:

1. Proposed new sections one and two are federal conformity and state reciprocity sections modeled after K.S.A. 17-5229 and 17-5230 the savings and loan code.

The proposed language is broad enough to permit credit unions to establish disaster recovery locations and participate in shared service centers outside the State of Kansas. In addition to providing federal conformity, proposed new section two will require state reciprocity for Kansas credit unions in another state as a condition of admission by the administrator of an out of state credit union to establish a facility in Kansas. This will permit the State Department of Credit Unions to maintain direct positive control over the establishment of such facilities in Kansas.

2. 17-2206 would be amended to give the administrator the authority by rule and regulation to require that a credit union establish plans and programs concerning the safety and soundness of the credit union. This will give the State Department of Credit Unions the express authority to require credit unions to create disaster recovery plans and security programs. It will also give the Department the flexibility to add additional safety and soundness requirements in the future.

Hansen FLSL
Attachment 2
Jan 13, 1993

3. New section three will provide the administrator with statutory authority to issue rules and regulations for K.S.A. 17-2201 through 17-2219, K.S.A. 17-2221 through 17-2246, and K.S.A. 17-2262 through 17-2267. This will provide the administrator the authority to prescribe rules and regulations for credit union statutes.
4. 17-2221 would be amended to give the administrator the authority by rule and regulation to permit a credit union to add additional places of business within the state.

One additional change in Section 17-2221 is the requirement that a Kansas credit union obtain not only the consent of the administrator but also the agreement of the Administrator. The purpose of the term "agreement" is to give the administrator the flexibility to "contract" with the credit union to cover concerns of the administrator with the new or additional locations. In effect, this language will give the administrator the authority to deal with regulatory concerns on a case-by-case basis.

5. A new subsection (d) is proposed for Section 17-2214. The proposed subsection will provide a corporate credit union with the ability to create non-voting classes of membership.

This change will permit corporate credit unions to provide services to credit union service organizations or other related corporate entities without creating a block of votes in the corporate credit union for related entities.

PROPOSED AMENDMENTS TO THE KANSAS CREDIT UNION ACT

New section one:

Establishment of facilities in another state.

Subject to such prohibitions, limitations and conditions as may be prescribed by the administrator in rules and regulations, the administrator may allow any credit union having its home office in this state to establish and operate facilities in a state other than Kansas if the law of the state in which the facility is to be located permits the establishment and operation of such a facility by a credit union with its home office located in Kansas. Such regulations shall not exceed the authority granted to federally chartered credit unions to operate a facility in a state other than Kansas.

New section two:

Establishment of facilities in Kansas by out of state credit unions.

Subject to such prohibitions, limitations and conditions as may be prescribed by the administrator in rules and regulations, the administrator may allow any credit union having its home office in a state other than Kansas to establish and operate facilities within the state of Kansas if the law of the state where the home office of the credit union is located permits the establishment and operation of such a facility in that state by credit unions with home offices in Kansas. Such regulations shall not exceed the authority granted to federally chartered credit unions to operate a facility in a state other than Kansas.

17-2206

(a) Credit unions shall be subject to the exclusive supervision of the administrator and shall make and keep current such books, and records, prepare reports and establish plans and programs concerning the safety and soundness of the credit union as may be required by rules and regulations prescribed by the administrator and shall make a report of condition to the administrator at least semiannually, on blank forms to be supplied by the administrator, notice of which reports shall be sent out by the administrator. Returns shall be verified under oath of the president or chairperson of the board, whichever has been elected by the board of directors pursuant to K.S.A. 17-2209, and amendments thereto, and treasurer, and additional reports may be required by the administrator. Copies of a current balance sheet shall be furnished without charge by the administrator to any person upon request. Any credit union which neglects to make the above reports shall forfeit to the treasurer of the state up to \$50 for each day of such neglect at the discretion of the administrator.

New section three:

The administrator may issue rules and regulations as may be necessary to implement or effect compliance with the provisions of K.S.A. 17-2201 through 17-2219, K.S.A. 17-2221 through 17-2246, and K.S.A. 17-2262 through 17-2267.

17-2221

Subject to rules and regulations as may be prescribed by the administrator, a credit union may change its place of business or add additional places of business within this state only with the written consent and agreement of the administrator.

New section four:

17-2214

(d) Subject to approval by the Administrator, a corporate credit union may provide in its bylaws for a class or classes of associate members of the corporate credit union. Associate members shall have all rights, privileges and responsibilities of members except the right to vote as provided in K.S.A. 17-2207.

9-1504. Death of lessee or lessees in joint tenancy; opening of box; disposition of contents. In the event the sole lessee or all lessees in joint tenancy named in the lease agreement covering a safe deposit box rental shall die, the safe deposit box may be opened at any time thereafter, in the presence of persons claiming to be interested in the contents thereof, by two employees of the lessor, one of whom shall be an officer of the lessor; and such employees may remove all instruments of a testamentary nature and deposit the same with the district court, taking its receipt therefor, and such employees in their discretion may deliver life insurance policies therein contained to the beneficiaries named in such policies, and any deed to a cemetery lot and any burial instructions found therein to the appropriate parties.

Any and all other contents of such box so opened shall be kept and retained by the bank, trust company or safe deposit company and shall be delivered only to the parties legally entitled to the same. In the event no person claims to be interested in the contents of such box within sixty (60) days after the death of the lessee, the lessor may open the box by forcible entry and remove the contents and deliver the same to the district court, subject to the payment of rentals, of expenses, and repairs.

History: L. 1947, ch. 102, § 73; L. 1975, ch. 44, § 25; L. 1976, ch. 145, § 35; Jan. 10, 1977.

, forcibly if necessary,

Ks. Bankers Assoc.

*House F.D.S.D.
Attachment 3
Jan. 13, 1994*

75. Definitions. As used in this act, unless context otherwise requires:

- (a) "Treasurer" means state treasurer.
- (b) "Controller" means director of accounts and reports.
- (c) "Board" means the pooled money investment board.
- (d) "Bank" means a state or national bank doing business within the state of Kansas.
- (e) "State moneys" means all moneys in the treasury of the state or coming lawfully into the possession of the treasurer.
- (f) "Custodial moneys" means state moneys deposited with the treasurer which, in the written opinion of the attorney general, are required by contract, bequest or law to be segregated from other bank accounts.
- (g) "Special moneys" means moneys which are required to be or are deposited in a custodial bank account or a fee agency account by the state or any agency thereof.
- (h) "State bank account" means state moneys or special moneys deposited in accordance with the provisions of this act.
- (i) "Operating account" means a state bank account which is payable or withdrawable, in whole or in part, on demand.
- (j) "Investment account" means a state bank account which is not payable on demand but shall not include custodial accounts.
- (k) "Market rate" means the average of the average equivalent yields, with equivalent maturities, of: (1) United States government securities; and (2) debt obligations of the following United States government agencies, federal home loan banks, federal national mortgage association and federal farm credit bank.
- (l) "Investment rate" means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities.
- (m) "Custodial account" means a state bank account of custodial moneys.
- (n) "Fee agency account" means a state bank account of any state agency consisting of fees, tuition or charges authorized by law prior to remittance to the state treasurer.
- (o) "Disbursement" means a payment of any kind whatsoever made from the state treasury or from any operating account, except transfer of state or special moneys between or among operating accounts and investment accounts or either or both of them.
- (p) "Securities" means, for the purposes of K.S.A. 75-4218, and amendments thereto, any one or more of the following:
 - (1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States sponsored enterprises which under federal law may be accepted as security for public funds.
 - (2) Kansas municipal bonds which are general obligations of the municipality issuing the same.
 - (3) Revenue bonds of any agency or arm of the state of Kansas.

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Revenue bonds of any municipality, as defined by K.S.A. 10-101, and amendments thereto, within the state of Kansas or bonds issued by a public building commission as authorized by K.S.A. 12-1761, and amendments thereto, if approved by the state bank commissioner, except (A) bonds issued under the provisions of K.S.A. 12-1740 *et seq.*, and amendments thereto, unless such bonds are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp. and (B) bonds secured by revenues of a utility which has been in operation for less than three years. Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(5) Temporary notes of any municipal corporation or quasi-municipal corporation within the state of Kansas which are general obligations of the municipal corporation or quasi-municipal corporation issuing the same.

(6) Warrants of any municipal corporation or quasi-municipal corporation within the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy.

(7) Bonds of any municipal or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America. A copy of such escrow agreement shall be furnished to the treasurer.

(8) Securities listed in paragraph (13) of subsection (d) of K.S.A. 9-1402 and amendments thereto within limitations of K.S.A. 9-1402 and amendments thereto. Such securities may be accepted or rejected by the treasurer.

(9) All of such securities shall be current as to interest according to the terms thereof.

(10) Whenever a bond is authorized to be pledged as a security under this section, such bond shall be accepted as a security if: (i) In the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security; (ii) in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered; or (iii) in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

(q) "Savings bank" means a federally chartered savings bank insured by the federal deposit insurance corporation and doing business within the state of Kansas.

(r) "Savings and loan association" means a state or federally chartered savings and loan association insured by the federal deposit insurance corporation and doing business within the state of Kansas.

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(s) "Guaranty bond" means a bond guaranteeing deposits in a bank in excess of Federal Deposit Insurance Corporation Insurance, underwritten by an insurance company authorized to do business in the state of Kansas.

75-4218. Accounts to be secured; deposit of securities, exception; amount of security required. (a) All state bank accounts shall be secured by pledge of securities as provided in this section.

(b) The bank, savings bank or savings and loan association receiving or having a state bank account shall deposit or cause its agent, trustee or an affiliate bank having identical ownership as the bank receiving or having such account to deposit, securities owned by it, or by its agent or trustee holding securities on its behalf, or by such affiliate bank, in one of the following ways:

(1) Deposit with the treasurer.

(2) Deposit with a bank having adequate modern facilities for the safekeeping of securities and doing business in the state of Kansas, and which facilities shall have had the prior approval of the board. Any such bank receiving securities for safekeeping shall be liable to the state for any loss suffered by the state in the event such bank relinquishes the custody of any such securities contrary to the provisions of this act or rules and regulations adopted thereunder. No such deposit of securities shall be made in any facility owned or controlled directly or indirectly by the bank depositing the same.

(3) Deposit with the federal reserve bank of Kansas City, Missouri.

(4) Deposit with the federal home loan bank of Topeka, Kansas.

(5) Any combination of (1), (2), (3) and (4).

(c) Any such deposit of securities, except with the treasurer, shall have a joint custody receipt taken therefor with one copy going to the treasurer and one copy going to the bank, savings bank or savings and loan association which deposits such securities. In lieu of the initial deposit of securities provided for in this subsection (c), the treasurer or the treasurer's duly authorized deputy, for a period of not to exceed 10 calendar days, may accept the telephone assurance of a bank qualified as provided in (2) or (3) of subsection (b), that the depository bank has requested the issuance of a joint custody receipt with the state of Kansas, specifying the securities pledged, for the purpose of compliance with this section and that such joint custody receipt will be forthcoming.

(d) Securities deposited to comply with this section may be withdrawn on application of the bank, savings bank or savings and loan association depositing the securities, if such application is approved by the treasurer or the treasurer's duly authorized deputy for the reason that such deposit of securities is no longer needed to comply with this section or are required for collection by virtue of their maturity or for exchange. Securities withdrawn for collection by virtue of their maturity or for exchange shall be replaced within 15 calendar days, but until replaced the state shall retain a first lien on the withdrawn security or the proceeds therefrom.

(e) Operating accounts, investment accounts, fee agency accounts and custodial accounts shall be secured by pledge of securities the market value of which is equal to 100% of the amount of the account, less so much of any such account as is protected by the federal deposit insurance corporation. Any representative responsible for a fee agency account shall transfer immediately all moneys not so secured to the state treasurer for deposit in the state treasury.

or by pledge of guaranty bonds as defined in 75-4201(s) and amendments thereto.

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or by pledge of guaranty bonds the value of which is equal to 100% of the amount of the account, less so much of any such account as is protected by the federal deposit insurance corporation.

11d. Machine readable instruments; unauthorized transactions; liability. The amount of a depositor's liability for an unauthorized transaction or a series of unauthorized transactions by a machine readable instrument shall not exceed \$50, unless the depositor fails to notify the bank within four business days after learning of the loss or theft of the machine readable instrument, then the depositor's liability shall not exceed \$300. ✓

History: L. 1975, ch. 43, § 2; L. 1987, ch. 55, § 1; July 1.

For purposes of this section,

(a) "unauthorized transaction by a machine readable instrument" means an electronic fund transfer from a depositor's account initiated by a person other than the depositor without actual authority to initiate the transfer and from which the depositor receives no benefit. The term does not include any electronic fund transfer (1) initiated by a person who was furnished with the access device to the depositor's account by the depositor, unless the depositor has notified the bank involved that transfers by that person are no longer authorized, (2) initiated with fraudulent intent by the depositor or any person acting in concert with the depositor, or (3) that is initiated by the bank or its employee.

(b) "notice to a bank" is given when a depositor takes such steps as are reasonably necessary to provide the bank with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive the information. Notice may be given to the bank, at the depositor's option, in person, by telephone, or in writing. Notice in writing is considered given at the time the depositor deposits the notice in the mail or delivers the notice for transmission by any other usual means to the bank. Notice is also considered given when the bank becomes aware of circumstances that lead to the reasonable belief that an unauthorized electronic fund transfer involving the depositor's account has been or may be made.

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58-2309a. Entry of satisfaction of mortgage; duties and liability of mortgagee or assignee of mortgage. (a) When the indebtedness secured by a recorded mortgage is paid and there is no agreement for the making of future advances to be secured by the mortgage, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be entered of record forthwith, paying the required fee ~~without charge to the mortgagor or the mortgagee's assigns.~~

(b) When a mortgage is recorded covering real estate in which the mortgagor has no interest, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be entered of record, paying the required fee without charge to the mortgagor or the mortgagor's assigns.

(c) A mortgagor, a mortgagor's heirs or assigns or anyone acting for such mortgagor, heirs or assigns, or the owner of real estate upon which a mortgage has been recorded by someone having no interest in the real estate, may make demand upon a mortgagee or assignee of a mortgage for the entering of satisfaction of the mortgage, as provided for in subsections (a) and (b).

(d) Any mortgagee or assignee of a mortgage who refuses or neglects to enter satisfaction of such mortgage within 20 days after demand has been made as provided in subsection (c) shall be liable in damages to the person for whom the demand was made in the sum of \$500, together with a reasonable attorney's fee for preparing and prosecuting the action. The plaintiff in such action may recover any additional damages that the evidence in the case warrants. Civil actions may be brought under this act before any court of competent jurisdiction, and attachments may be had as in other cases.

(e) The mortgagee or assignee of a mortgage entering satisfaction or causing to be entered satisfaction of a mortgage under the provisions of subsection (a) shall furnish to the office of the register of deeds the full name and last known post office address of the mortgagor or the mortgagor's assignee. The register of deeds shall forward such information to the county clerk who shall make any necessary changes in address records for mailing tax statements.

History: L. 1971, ch. 189, § 1; L. 1980, ch. 163, § 1; L. 1989, ch. 165, § 1; July 1.

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58-2318. Execution of assignments and releases of mortgages by corporations. All assignments and releases of mortgages by a corporation shall be valid when executed by the president, vice-president, secretary, cashier, or treasurer of such corporation. Any assignment or release of a mortgage by a corporation which was executed on or after March 8, 1974, and prior to the effective date of this act, by one of the corporate officers designated herein, with or without attestation by the corporate seal, is hereby declared to be a legal and valid act of such corporation.

,or any other officer

so authorized by corporate resolution.

History: L. 1911, ch. 225, § 1; R.S. 1923, 67-318; L. 1974, ch. 234, § 1; L. 1975, ch. 293, § 1; March 3.

Research and Practice Aids:

Corporations—417, 480½.

Hatcher's Digest, Mortgages §§ 63, 64, 83, 84.

C.J.S. Corporations §§ 1064, 1195, 1214.

Assignment of mortgage, Kansas Practice Methods § 327.

~~**58-312.** Exempt personal property; joint consent of husband and wife required. It shall be unlawful for either husband or wife (where that relation exists) to create any lien or security interest other than a purchase money security interest upon any personal property owned by either or both of them, and now exempt by law to resident heads of families from seizure and sale upon any attachment, execution or other process issued from any court in this state, without the joint consent of both husband and wife; and from and after the time when this act shall take effect no agreement creating such a security interest shall be valid unless executed by both husband and wife: *Provided*, That this act shall not be construed to invalidate any such lien or security interest except so far as relates to the exempt property covered thereby.~~

History: L. 1889, ch. 176, § 1; L. 1901, ch. 103, § 1; R.S. 1923, 58-312; L. 1965, ch. 564, § 410; Jan. 1, 1966.