

Approved: March 10, 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 March 7, 1994 in Room 527-S of the Capitol.

All members were present except: Representative Henry Helgerson, Excused

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

Conferees appearing before the committee: Jim Maag, KBA
Clifford Shinski, Investors Services Trust Company
Daryl Craft, Guardian Trust
Judi Stork, State Banking Commissioner's Office

Others attending: See attached list

HEARING ON SB 504: Bank or trust company receives remuneration for services to investment trust may invest therein

This bill would amend K.S.A. 17-5005 to allow a bank or trust company to receive a fee for services provided to its own investment company or investment trust (mutual fund) even if fiduciary account funds are also invested in the investment company or trust. The bill would require any bank or trust company receiving fees and also investing fiduciary account funds in the mutual fund to disclose to the beneficiaries of the accounts the rate, method or formula by which fees for service are determined; that such an investment is in the best interest of the beneficiary of the fiduciary account (prudent investor standard); and fees received by the bank or trust company for services provided to the investment company are reasonable.

Jim Maag, Kansas Bankers Association, explained that a similar bill has been adopted in more than 1/3 of all states (Attachment 1). An amendment recommended by the State Banking Department relating to disclosure was adopted by the Senate to assure that beneficiaries of fiduciary accounts are aware of the rate, formula or other methods by which the fee for services is determined. The total amount of all fees, charges, compensation, and remuneration for services shall be reasonable.

Clifford Shinski, Investors Services Trust Company of Overland Park, stated that the bill seems to be a sensible problem to solve the current problem. Reasonable fees are dictated by the market place and internal regulators.

Daryl Craft, Guardian Trust of Topeka, told the Committee that trust companies are developing and investing in mutual funds more often now than in the past. Although there are not that many trust companies large enough to have their own mutual fund, this could be a contractual arrangement with another trust company. The underlying stock prices control the price of mutual funds. Oversight mechanism is part of this bill. The trustee for the account determines if the investment is in the best interest of the client. The disclosure statement does not have to include the administrative fees as these fees were set up during the origination of the account. The disclosure amendment added by the Senate is not part of the legislation adopted by more than 1/3 of the states.

HEARING ON SB 540: Sub for SB 540 - Regulation of branch banks and branch trust companies

This bill would generally provide that no trust service desk, trust service office, or trust branch bank may undertake authorized activities until an application has been filed with the Bank Commissioner for approval and a fee has been paid to the Commissioner. Sections 1, 2, and New Section 4 delineate these activities.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 527-S Statehouse, at 3:30 p.m. on March 7, 1994.

Jim Maag, Kansas Bankers Association, explained that a trust service desk may be established by an agreement between a contracting trustee and an "originating trustee" with the agreement becoming effective, unless the Banking Commissioner disapproves the agreement, within 60 days after a notice has been filed by the interested parties (Attachment 1A). Application for a trust service office which offers the same service as a trust service desk can be made to the State Banking Board which has a different approval procedure. The Senate has concluded that all trust service applications should be made to the Bank Commissioner which should create less confusion and a more uniform process. The bill allows the right of parties to trust accounts to retain their current fiduciary relationships by filing a protest with the district court. The bill also allows the establishment of a trust service office in a community of less than 20,000 population.

Judi Stork, Deputy Commissioner of the Office of the State Bank Commissioner, issued support of the bill as it would provide uniformity in the approval process for trust services and places all trust providers on a level playing field when obtaining regulatory authority to expand services (Attachment 1B). The Bank Commissioner's Office also supports the change to allow the placement of trust companies in towns of less than 20,000 population. Ms. Stork did request language clarification on Page 11, Line 40 which would definitely prohibit "trust branching" across state lines regarding fiduciary activity as well as establishment of offices.

Clifford Shinski, President and Founder of the Investors Services Trust Company in Overland Park, again appeared before the Committee in support of this bill (Attachment 2). His testimony said the bill will provide efficiency and consistency by:

1. Providing an efficient and timely approval process for approval of trust service locations.
2. Vesting authority with Bank Commissioner for granting trust powers and approval of locations.
3. Providing an appeal process.
4. Providing for a wider selection of trust service providers.
5. Allowing more communities to have availability of trust services.

Representative Gilbert moved for the approval of the minutes of February 16, 17, 21, 22, 23, and 24.
Motion was seconded by Representative Crabb. The motion carried.

The meeting adjourned at 4:50 p.m. The next meeting is scheduled for March 8, 1994.

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DATE: _____

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The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 7, 1994


TO: House Committee on Financial Institutions and Insurance
RE: SB 504 - Investment powers of trust companies and banks

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of SB 504. The bill amends K.S.A. 17-5005 which was passed by the 1992 Legislature. However, that act has seemingly created more questions than it resolved. SB 504 was requested by the KBA Trust Division, as well as several Kansas banks, and would clarify current state law relating to fees which banks and trust companies may charge when they serve in the capacity of both investment advisor and trustee.

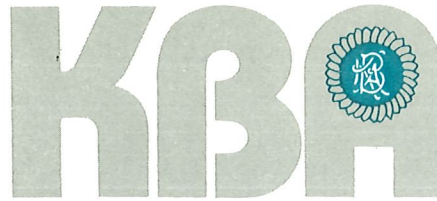
Section 1(c) of SB 504 is based on a model bill which has been adopted in over 1/3 of all the states and modified versions of which have been adopted in several other states. An amendment recommended by the State Banking Department relating to disclosure was adopted by the Senate FI&I Committee to assure that beneficiaries of fiduciary accounts are aware of the rate, formula or other method by which the fee for services is determined. It further requires that the total amount of all fees, charges, compensation, and any remuneration for services shall be reasonable. That amendment appears on lines 11 through 24 on page 2 of the bill.

We believe the bill as amended creates a statute which is both reasonable and understandable. We would request that the committee report SB 504 favorably.


James S. Maag
Senior Vice President

House F.D.D.
Attachment 1
3-7-94





The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 7, 1994

TO: House Committee on Financial Institutions and Insurance
RE: Sub for SB 540 - Application Procedure for Trust Services

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear in support of Sub for SB 540 which amends the banking code relating to the procedure for the establishment of trust services by a bank trust department or a trust company. The bill was requested by the KBA as the result of recommendations of the KBA Trust Division and the KBA State Affairs Committee. A task force composed of members of those two groups met in early December to discuss the best way to create a more "level playing field" when applications are made to provide trust services.

Under current law a trust service desk may be established by an agreement between a contracting trustee and an "originating trustee" (trust company, bank, s&l, or savings bank). Such an agreement would become effective unless the Bank Commissioner disapproves the agreement within 60 days after a notice has been filed by the interested parties. However, application by a trust company for the establishment of a trust service office which can offer the same services as a trust service desk must be made to the State Banking Board and is thus subject to a different approval procedure.

The Senate FI&I Committee spent considerable time reviewing and revising these procedures and came to the conclusion that all trust service applications should be made to the Bank Commissioner. The Commissioner would then review the applications and make a decision within a specific time frame. Any of the parties which had been involved in the application process would then have an opportunity to appeal to the State Banking Board for a review of the Commissioner's decision. The Board would then review that decision and either approve or overrule it within a specific time period.

This approach creates a less confusing and more uniform process for all parties involved. It further assures the opportunity for a public hearing, if requested, on any application for a trust service desk, service office, or bank branch offering

House F.D.S.D.
Attachment 1A

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Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444
FAX (913) 232-3484

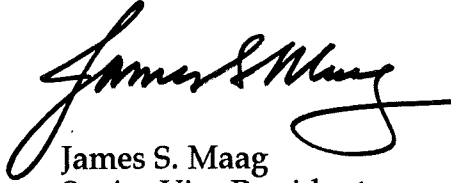
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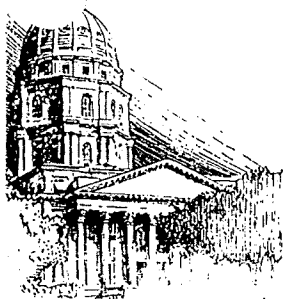


only trust services. Since the originating trustee would be allowed to offer a full range of trust services once a trust desk was established - just as a trust service office or the branch office of a bank could do - it seems logical that the application procedure should be the same for all applications and should be approved by the same regulatory entity.

In addition, Sub for SB 540 leaves in place the right of parties to trust accounts to retain their current fiduciary relationships by filing a protest with the district court. The bill also repeals the law enacted last year which prohibits the establishment of any trust service office of a trust company in communities of less than 20,000 population. Members of this committee will recall that this was a provision added to last year's act by this committee. Section 3 of Sub for SB 540 also provides that no trust company, bank, or other corporate or business entity whose home office is located outside the state of Kansas shall establish or operate a trust facility in Kansas.

We believe that Sub for SB 540 represents a very fair and workable approach to the issue of trust service applications and we would respectfully request that the committee recommend Sub of SB 540 favorably.


James S. Maag
Senior Vice President



From the desk of
Judi M. Stork
Deputy Commissioner
Office of the State Bank Commissioner

TO: House Financial Institutions and Insurance Committee

RE: Senate Bill 540

DATE: March 7, 1994

Mr. Chairman and Member of the Committee:

On behalf of Commissioner Frank Dunnick and the Office of the State Bank Commissioner, I am here today to testify in support of Senate Bill 540. This legislation combines the approval process for trust services - whether it be a trust service office of a trust company, a trust branch bank of a commercial bank, or a contracting agreement between a trust company and a bank. We support this legislation as it provides uniformity in the process and places all trust providers on a level playing field when obtaining regulatory authority to expand services.

There are two areas of Senate Bill 540 that on which we wish to make particular comment. The first is on page 7, line 34, where the 20,000 population requirement for establishing a trust service office has been deleted. While this is a "structure" issue, not a "safety and soundness" issue, the bank commissioner's office is supportive of this change as it levels the playing field for all trust providers. Both banks **and now trust companies** can place offices in a town of less than 20,000 in population. We think this change is fair and equitable.

James F. D. D.
Attachment 1B
3-7-94

House Financial Institutions and Insurance Committee
Senate Bill 540
March 7, 1994
Page Two

Secondly, please turn your attention to page 11, line 40, where a new section has been added. This section clearly prohibits the interstate branching of a trust facility by an out of state bank, trust company or any other entity. This does not prohibit such entity from engaging in fiduciary activity, but rather prohibits the establishment of an office. Historically, the office of the commissioner has always taken the position that "trust branching", across state lines, is prohibited. Since our department's position regarding this activity has been questioned at various times in the past, we think the addition of language that clearly and distinctly clarifies the legislature's intent to prohibit this activity is important.

Thank you for your time and consideration. I have no other comments, but would be happy to answer any questions the committee may have.

1B-2

**COMMENTS IN SUPPORT OF
HOUSE BILL 540
BEFORE THE
FINANCIAL INSTITUTIONS AND
INSURANCE COMMITTEE**

March 7, 1994

By Clifford W. Shinski
President and Founder
The Investors Services Trust Company
Overland Park, Kansas

*House File
Attachment 2
3-7-94*

ORIGINAL INTENT OF CONTRACTING FOR TRUST SERVICES LEGISLATION IN (1989)

1. Enable banks with small unprofitable and perhaps understaffed Trust Departments, "Originating Trustee," to have an administrative mechanism to turn their Fiduciary Responsibilities over to another Fiduciary and make their Trust authority inactive.
2. Provide Financial Institutions without Trust Authority the ability to contract with a Trust Service provider, "Contracting Trustee," to provide services to the institution's clients, and to furnish a Trust Service Desk in their facility for client convenience.
3. Assist the general public by broadening the ability to obtain high quality Trust Services.

HOUSE BILL 540 WILL PROVIDE EFFICIENCY AND CONSISTENCY

Provides an efficient and timely approval process (approximately 60 days) for approving locations for Trust Services.

Vests authority with the Bank Commissioner for granting of trust powers and approval of locations where Trust Services are offered to the public.

There is a provision for an appeal to the State Banking Board by any dissatisfied parties.

Retains consistency in the approval process for providing trust services to the public.

Provides for a wider selection of Trust Service providers.

**Broadens the ability for many communities to have Trust Service offices established
(previously limited to municipalities above 20,000 population
or approximately 5% of all Kansas communities).**

PERSONAL EXPERIENCE IN PROVIDING TRUST SERVICES

1. 24 years experience in the Trust business in the State of Kansas.
2. Helped create the original contracting legislation.
3. Nearly one-third of our clients are a three hour drive from our location.
4. It is important to our future growth to have the ability to provide Trust Services to clients in other locations.
5. The approval process should be relatively simple and economical.