

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Financial Institutions and Insurance** recommends **HB 2133** be amended on page 1, by striking all in lines 8 through 36;

On page 2, by striking all in lines 1 through 37; following line 37, by inserting:

"Section 1. K.S.A. 9-2307 is hereby amended to read as follows: 9-2307. (a) A fiduciary financial institution shall make a report to the commissioner pursuant to the provisions of K.S.A. 9-1704, and amendments thereto. In making such a report, a fiduciary financial institution shall:

(1) Report the fiduciary financial institution's fidfin transactions pursuant to generally accepted accounting principles; and

(2) calculate such fiduciary financial institution's capital solvency by including the value of all tangible and intangible assets owned by the fiduciary financial institution, regardless of use.

(b) In examining a fiduciary financial institution, the state banking board and the commissioner shall:

(1) Consider that the collateral or underlying assets associated with fidfin transactions are volatile in nature and that such volatility has been accepted by the members and customers of the fiduciary financial institution;

(2) respect the form, treatment and character of fidfin transactions under the laws of this state notwithstanding the treatment or characterization of such transactions under generally accepted accounting principles or for tax purposes;

(3) evaluate whether available capital, including the agreement of a fiduciary financial institution's members to contribute capital pursuant to K.S.A. 9-2305, and amendments thereto, exceeds the fiduciary financial institution's obligations, determined in accordance with generally accepted accounting principles;

(4) evaluate the background and qualifications of a fiduciary financial institution's executive officers and directors, the internal controls and audit processes enacted by the fiduciary financial institution and adherence to its policies and procedures;

(5) evaluate the profitability of a fiduciary financial institution in accordance with subsection (c);

(6) evaluate a fiduciary financial institution's compliance with applicable state and federal laws; and

(7) evaluate a fiduciary financial institution's information technology systems, policies and practices.

(c) Profitability shall not be a consideration in evaluating a fiduciary financial institution if sufficient capital and equity exist in the business, including, without limitation, membership capital, surplus, undivided profits and commitments by members to contribute additional capital to the fiduciary financial institution pursuant to K.S.A. 9-2305, and amendments thereto, to satisfy the fiduciary financial institution's obligations.

(d) A fiduciary financial institution shall be overseen, supervised and examined by the office of the state bank commissioner as a chartered trust company as defined in K.S.A. 9-701, and amendments thereto, exercising fiduciary powers and engaging in trust business pursuant to K.S.A. 9-2310, and amendments thereto, and rules and regulations adopted pursuant to state law by such office and shall be designated, recognized and referenced as a chartered trust company as defined in K.S.A. 9-701, and amendments thereto, by the office of the state bank

commissioner without exception.

Sec. 2. K.S.A. 9-2308 is hereby amended to read as follows: 9-2308. A fiduciary financial institution may use in such fiduciary financial institution's business name or advertising the words "fiduciary financial institution" or any similar term or phrase, but may not use in such institution's name the words "bank" or "trust company" without reference to fidfin trusts or any other term that tends to imply that such fiduciary financial institution is a bank or trust company, unless the commissioner has approved the use in writing after finding that the use will not be misleading. A fiduciary financial institution is a chartered trust company as defined in K.S.A. 9-701, and amendments thereto, for all purposes under federal and state law as if authorized under K.S.A. 9-804(c), and amendments thereto. While a fiduciary financial institution is a trust company for purposes of federal and state law and rules and regulations and possesses trust powers under this act, it is the intent of this section to impose restrictions on the business name of such institution to avoid confusion with other banks and trust companies that operate in this state but that are not fiduciary financial institutions. ~~The naming~~ restrictions on the business name imposed under this section shall in no way reduce or eliminate the trust powers granted to a fiduciary financial institution as a trust company under this act. Other than indicating that the fiduciary financial institution is headquartered and chartered in Kansas, no fiduciary financial institution's name or advertising shall infer or imply that such fiduciary financial institution is endorsed by, an affiliate of or otherwise connected with the government of the state of Kansas. Nothing in this section or K.S.A. 9-2011, and amendments thereto, shall restrict a fiduciary financial institution from publishing or promulgating itself as a trust company as defined in K.S.A. 9-701, and amendments thereto, in legal or regulatory filings or disclosures to existing or prospective customers or investors.

Sec. 3. K.S.A. 9-2310 is hereby amended to read as follows: 9-2310. Any fiduciary

financial institution is hereby authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, the following powers:

(a) To engage in fidfin transactions in accordance with K.S.A. 9-2311, and amendments thereto;

(b) to receive, retain and manage alternative asset custody accounts in accordance with K.S.A. 9-2313, and amendments thereto;~~and~~

(c) to exercise fiduciary powers and full trust powers and to engage as a trust company in trust business as defined in K.S.A. 9-701, and amendments thereto, as incidental to and any other applicable federal or state law or rules and regulations, in any manner that assists in the performance of the activities in subsections (a) and (b); and

(d) to publish and promulgate itself as a chartered trust company as defined in K.S.A. 9-701, and amendments thereto, in legal or regulatory filings or disclosures to existing or prospective customers or investors, subject only to the restriction on the business name as provided in K.S.A. 9-2308, and amendments thereto.

Sec. 4. K.S.A. 9-2307, 9-2308 and 9-2310 are hereby repealed.";

Also on page 2, in line 39, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "payments made with"; by striking all in lines 2 through 4; in line 5, by striking all before the period and inserting "the technology-enabled fiduciary financial institutions act; providing that fiduciary financial institutions shall be overseen, supervised and examined by the office of the state bank commissioner as a chartered trust company; allowing a fiduciary financial institution to publish or promulgate itself as a trust company in legal or regulatory filings or in disclosures to existing or prospective customers or investors; authorizing a fiduciary financial institution to exercise fiduciary powers and full trust

powers and to engage as a trust company under state and federal law; amending K.S.A. 9-2307, 9-2308 and 9-2310 and repealing the existing sections"; and the bill be passed as amended.

_____ Chairperson