

SENATE BILL No. 199

By Senator Holland

2-7

1 AN ACT concerning financial institutions; relating to the technology-
2 enabled fiduciary financial institutions act; authorizing the state
3 banking board to deny, suspend or revoke the charter of a fiduciary
4 financial institution in certain circumstances; providing procedures
5 therefor; requiring fiduciary financial institutions to purchase a surety
6 bond; establishing a civil money penalty for violations.

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

9 Section 1. (a) The state banking board, after notice and an
10 opportunity for a hearing in accordance with the provisions of the Kansas
11 administrative procedure act, may deny, suspend, revoke or refuse to
12 approve a fiduciary financial institution charter issued pursuant to this act
13 or issue a cease and desist order, if the state banking board finds that:

14 (1) The fiduciary financial institution has violated any provision of
15 this act or any rules and regulations adopted or orders lawfully made
16 pursuant to this act;

17 (2) facts or conditions exist that would have justified the denial of the
18 charter if such facts or conditions had existed or been known to exist at the
19 time the application for the charter was made;

20 (3) the fiduciary financial institution has filed with the commissioner
21 or state banking board any document or statement containing any false
22 representation of a material fact or fails to state a material fact;

23 (4) the fiduciary financial institution or any director, officer,
24 employee or agent of the fiduciary financial institution has been convicted
25 of a felony under the laws of Kansas or in any other jurisdiction;

26 (5) the fiduciary financial institution has engaged in or is engaging in
27 deceptive business practices;

28 (6) the fiduciary financial institution or any director, officer,
29 employee or agent of the fiduciary financial institution has been the
30 subject of any disciplinary action by the commissioner, the state banking
31 board or any other state or federal regulatory agency;

32 (7) a final judgment has been entered against the fiduciary financial
33 institution in a civil action and the state banking board finds, based upon
34 the conduct on which the judgment is based, that issuing a charter to such
35 fiduciary financial institution would be contrary to the public interest;

36 (8) the fiduciary financial institution or any director, officer,

1 employee or agent of the fiduciary financial institution has been convicted
2 of engaging in fiduciary financial institution activity without authorization
3 pursuant to K.S.A. 9-2302 or 9-2325, and amendments thereto, or a
4 substantially similar offense in another jurisdiction;

5 (9) the fiduciary financial institution has refused to furnish
6 information required by the commissioner or the state banking board
7 within a reasonable period of time as established by the commissioner or
8 the state banking board;

9 (10) the fiduciary financial institution failed to pay timely any
10 assessment required by this act or any rules and regulations adopted
11 pursuant to this act; or

12 (11) the fiduciary financial institution failed to provide and maintain a
13 surety bond pursuant to section 2, and amendments thereto.

14 (b) None of the following actions shall deprive the commissioner or
15 the state banking board of any jurisdiction or right to institute or proceed
16 with any disciplinary proceeding against a fiduciary financial institution to
17 render a decision suspending, revoking or refusing to approve a charter or
18 to establish and make a record of the facts of any violation of law for any
19 lawful purpose:

20 (1) The imposition of an administrative penalty;

21 (2) the lapse or suspension of any charter issued under this act by
22 operation of law; or

23 (3) the fiduciary financial institution's voluntary surrender of any
24 charter issued under this act.

25 (c) Any final order of the state banking board pursuant to this section
26 shall be subject to review in accordance with the Kansas judicial review
27 act.

28 (d) This section shall be a part of and supplemental to the technology-
29 enabled fiduciary financial institutions act.

30 Sec. 2. (a) Each fiduciary financial institution shall purchase a surety
31 bond in an amount equal to 5% of the total assets of such fiduciary
32 financial institution. The determination of total assets shall be based on
33 generally accepted accounting principles. Such surety bond shall be used
34 for, but not limited to:

35 (1) Liquidation expenses incurred by the office of the state bank
36 commissioner;

37 (2) payment of fines, fees and penalties; or

38 (3) reimbursement of losses or damages incurred by customers of
39 such fiduciary financial institution.

40 (b) The surety bond shall:

41 (1) Be issued by a company authorized to do business in this state and
42 not affiliated in any manner with such fiduciary financial institution;

43 (2) be payable to the office of the state bank commissioner;

1 (3) be filed with the commissioner; and

2 (4) contain a minimum 30-day cancellation or nonrenewal provision.

3 (c) This section shall be a part of and supplemental to the technology-
4 enabled fiduciary financial institutions act.

5 Sec. 3. (a) After providing notice and an opportunity for a hearing in
6 accordance with the Kansas administrative procedure act, the
7 commissioner may, with the approval of the state banking board, assess
8 against and collect a civil money penalty from any fiduciary financial
9 institution or any director, officer, employee or agent of the fiduciary
10 financial institution that violates the provisions of this act or any rules and
11 regulations adopted pursuant to this act.

12 (b) The amount of the civil money penalty shall be established by the
13 commissioner, with the approval of the state banking board, in rules and
14 regulations, except that such civil money penalty shall be not less than
15 \$5,000 per violation.

16 (c) This section shall be a part of and supplemental to the technology-
17 enabled fiduciary financial institutions act.

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