

SENATE BILL No. 139

By Committee on Financial Institutions and Insurance

1-31

1 AN ACT concerning banks and trust companies; relating to the state
2 banking code; updating certain definitions, terms and conditions
3 therein; specifying that certain hearings be held in accordance with the
4 Kansas administrative procedure act; updating certain internal
5 references; requiring immediate notification of changes in board
6 members; specifying that the charter of certain banks be deemed void
7 on the effective date of a merger; establishing conditions under which it
8 would be lawful to engage in banking without first obtaining authority
9 from the commissioner; amending K.S.A. 9-519, 9-1111, 9-1114, 9-
10 1724, 9-1807, 9-2011, 9-2108 and 9-2111 and K.S.A. 2024 Supp. 9-
11 2107 and repealing the existing sections; also repealing K.S.A. 9-2101
12 and 16-842.

13

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

15 Section 1. K.S.A. 9-519 is hereby amended to read as follows: 9-519.
16 For the purposes of K.S.A. 9-520 through 9-524, ~~and amendments thereto,~~
17 and K.S.A. 9-532 through 9-541, and amendments thereto, unless
18 otherwise required by the context:

19 (a) "Bank" means an insured bank as defined in 12 U.S.C. § 1813(h)
20 ~~except the term shall.~~ "Bank" does not include a national bank that:

21 (1) Engages only in credit card operations;

22 (2) does not accept demand deposits or deposits that the depositor
23 may withdraw by check or similar means for payment to third parties or
24 others;

25 (3) does not accept any savings or time deposits of less than
26 \$100,000;

27 (4) maintains only one office that accepts deposits; and

28 (5) does not engage in the business of making commercial loans.

29 (b) (1) "Bank holding company" means any company that:

30 (A) Directly or indirectly owns, controls, or has power to vote 25% or
31 more of any class of the voting shares of a bank or 25% or more of any
32 class of the voting shares of a company that is or becomes a bank holding
33 company by virtue of this act;

34 (B) controls in any manner the election of a majority of the directors
35 of a bank or of a company that is or becomes a bank holding company by
36 virtue of this act;

1 (C) the commissioner determines, after notice and opportunity for a
2 hearing *to be conducted in accordance with the Kansas administrative*
3 *procedure act*, directly or indirectly exercises a controlling influence over
4 the management or policies of the bank or company.

5 (2) Notwithstanding paragraph (1), no company:

6 (A) Shall be deemed to be a bank holding company by virtue of the
7 company's ownership or control of shares acquired by the company in
8 connection with such company's underwriting of securities if such shares
9 are held only for such period of time as will permit the sale thereof on a
10 reasonable basis;

11 (B) formed for the sole purpose of participating in a proxy solicitation
12 shall be deemed to be a bank holding company by virtue of the company's
13 control of voting rights of shares acquired in the course of such
14 solicitation;

15 (C) shall be deemed to be a bank holding company by virtue of the
16 company's ownership or control of shares acquired in securing or
17 collecting a debt previously contracted in good faith, provided such shares
18 are disposed of within a period of two years from the date on which such
19 shares could have been disposed of by such company; or

20 (D) owning or controlling voting shares of a bank shall be deemed to
21 be a bank holding company by virtue of the company's ownership or
22 control of shares held in a fiduciary capacity except where such shares are
23 held for the benefit of such company or the company's shareholders.

24 (c) "Company" means any corporation, limited liability company,
25 trust, partnership, association or similar organization, including a bank, but
26 ~~shall~~ *does* not include any corporation, the majority of the shares of which
27 are owned by the United States or by any state, or ~~include~~ any individual,
28 partnership or qualified family partnership upon the determination by the
29 commissioner that a general or limited partnership qualifies under the
30 definition in 12 U.S.C. § 1841(o)(10).

31 (d) "Foreign bank" means any company organized under the laws of a
32 foreign country, a territory of the United States, Puerto Rico, Guam,
33 American Samoa or the Virgin Islands or any subsidiary or affiliate
34 organized under such laws, ~~which~~ *that* engages in the business of banking.

35 (e) "Kansas bank" means any bank, as defined by subsection (a), that,
36 in the case of a state chartered bank, is a bank chartered under the
37 authority of the state of Kansas; and, in the case of a national banking
38 association, a bank with its charter location in Kansas.

39 (f) "Kansas bank holding company" means a bank holding company,
40 as defined by subsection (b), with total subsidiary bank deposits in Kansas
41 that exceed the bank holding company's subsidiary bank deposits in any
42 other state.

43 (g) "Out-of-state bank holding company" means any holding

1 company that is not a Kansas bank holding company as defined in
2 subsection (f).

3 (h) "Subsidiary" means, with respect to a specified bank holding
4 company:

5 (1) Any company with more than 5% of the voting shares, excluding
6 shares owned by the United States or by any company wholly owned by
7 the United States, that are directly or indirectly owned or controlled by, or
8 held with power to vote, such bank holding company; or

9 (2) any company, the election of a majority of the directors of which,
10 is controlled in any manner by such bank holding company.

11 Sec. 2. K.S.A. 9-1111 is hereby amended to read as follows: 9-1111.

12 (a)(1) The general business of every bank shall be transacted at the place
13 of business specified in the bank's certificate of authority and at one or
14 more branch banks established and operated as provided in this section. It
15 shall be unlawful for any bank to establish and operate any branch bank or
16 relocate an existing branch bank except as hereinafter provided.
17 Notwithstanding the provisions of this section, any location ~~at which~~
18 *where* a depository institution, as defined by K.S.A. 9-701, and
19 amendments thereto, receives deposits, renews time deposits, closes loans,
20 services loans or receives payments on loans or other obligations, as agent,
21 for a bank pursuant to K.S.A. 9-1101(a)(25), and amendments thereto, or
22 other applicable state or federal law, or is authorized to open accounts or
23 receive deposits under K.S.A. 9-1101(a)(28), and amendments thereto,
24 shall not be deemed to be a branch bank.

25 (a)(2) For the purposes of this section, the term "branch bank" means
26 any office, agency or other place of business located within this state, other
27 than the place of business specified in the bank's certificate of authority, ~~at~~
28 ~~which~~ *where* deposits are received, checks paid, money lent or trust
29 authority exercised, if approval has been granted by the commissioner
30 pursuant to K.S.A. ~~9-1602~~ 9-1601, and amendments thereto.

31 (b) ~~establishment of~~ *To establish* a new branch bank or ~~relocation of~~
32 *relocate* an existing branch bank:

33 (1) ~~After first applying for and obtaining the approval of the~~
34 ~~commissioner,~~ A bank incorporated under the laws of this state may
35 establish and operate one or more branch banks or relocate an existing
36 branch bank, anywhere within this state *after first applying for and*
37 *obtaining the commissioner's approval*;

38 (2) the application shall include the nature of the banking business to
39 be conducted at the proposed branch bank, the primary geographical area
40 to be served by the proposed branch bank, the personnel and office
41 facilities to be provided at the proposed branch bank and other information
42 the commissioner may require;

43 (3) the application shall include the name selected for the proposed

1 branch bank. The name selected for the proposed branch bank shall not be
2 the name of any other bank or branch bank:

3 (A) Doing business in the same city or town; or

4 (B) within a 15-mile radius of the proposed location, nor shall the
5 name selected be required to contain the name of the applicant bank. If the
6 name selected for the proposed branch bank does not contain the name of
7 the applicant bank, the branch bank shall provide in the public lobby of
8 such branch bank, a public notice that it is a branch bank of the applicant
9 bank. Any bank may request exemption from the commissioner from the
10 provisions of this paragraph;

11 (4) the application shall include proof of publication of notice that the
12 applicant bank intends to file or has filed an application to establish a
13 branch bank or relocate an existing branch bank. The notice shall be
14 published in a newspaper of general circulation in the county where the
15 applicant bank proposes to locate the branch bank. The notice shall be in
16 the form prescribed by the commissioner and, at a minimum, shall contain
17 the name and address of the applicant bank, the location of the proposed
18 branch and a solicitation for written comments. The notice shall be
19 published on the same day for two consecutive weeks and provide for a
20 comment period of not less than 10 days after the date of the second
21 publication;

22 (5) upon receipt of the application, and following expiration of the
23 comment period, the commissioner may hold a hearing in the county ~~in~~
24 ~~which~~ where the applicant bank seeks to operate the branch bank. The
25 applicant shall publish notice of the time, date and place of such hearing in
26 a newspaper of general circulation in the county where the applicant bank
27 proposes to locate the branch bank; *within* not less than 10; nor more than
28 30; days prior to the date of the hearing, and proof of publication shall be
29 filed with the commissioner. At any such hearing, all interested persons
30 shall be allowed to present written and oral evidence to the commissioner,
31 or the commissioner's designee, in support of or in opposition to the
32 branch bank. Upon completion of a transcript of the testimony given at any
33 such hearing, the transcript shall be filed in the office of the commissioner;

34 (6) if the commissioner determines a public hearing is not warranted,
35 the commissioner shall approve or disapprove the application within 15
36 days after receipt of a complete application; but not prior to the end of the
37 comment period. If a public hearing is held, the commissioner shall
38 approve or disapprove the application within 60 days after consideration of
39 the complete application and the evidence gathered during the
40 commissioner's investigation. The period for consideration of the
41 application may be extended if the commissioner determines *that* the
42 application presents a significant supervisory concern. The new branch or
43 relocation shall only be granted if the commissioner finds that:

1 (A) There is a reasonable probability of usefulness and success of the
2 proposed branch bank; and

3 (B) the applicant bank's financial history and condition is sound;

4 (7) within 15 days after any final action of the commissioner
5 approving or disapproving an application, the applicant, or any adversely
6 affected or aggrieved person that provided written comments during the
7 specified comment period, may request a hearing with the state banking
8 board. Upon receipt of a timely request, the state banking board shall
9 conduct a hearing in accordance with the provisions of the Kansas
10 administrative procedure act. Any decision of the state banking board is
11 subject to review in accordance with the Kansas judicial review act;

12 (c) Upon the request of any bank proposing to relocate an existing
13 branch less than one mile from the existing location, the commissioner
14 may exempt such bank from the requirements of this section;

15 (d) Any branch bank lawfully established and operating on the
16 effective date of this act may continue to be operated by the bank then
17 operating the branch bank and by any successor bank;

18 (e) Any bank location ~~which~~ *that* has been established and is being
19 maintained by a bank at the time of the bank's merger into or consolidation
20 with another bank or at the time the bank's assets are purchased and the
21 bank's liabilities are assumed by another bank may continue to be operated
22 by the surviving, resulting or purchasing and assuming bank;

23 (f) Any state bank or national banking association may provide and
24 engage in banking transactions by means of remote service units wherever
25 located, ~~which~~. Remote service units shall not be considered to be branch
26 banks. Any banking transaction ~~effected~~ *affected* by use of a remote
27 service unit shall be deemed to be transacted at a bank and not at a remote
28 service unit;

29 (g) As a condition to the operation and use of any remote service unit
30 in this state, a state bank or national banking association, each hereinafter
31 referred to as a bank, ~~which~~ *that* desires to operate or enable its customers
32 to utilize a remote service unit ~~must~~ *shall* agree that such remote service
33 unit will be available for use by customers of any other bank or banks
34 upon the request of such bank or banks to share the use of the remote
35 service unit and the agreement of such bank or banks to share all costs,
36 including a reasonable return on capital expenditures incurred in
37 connection with the remote service unit's development, installation and
38 operation. The owner of the remote service unit, whether a bank or any
39 other person, shall make the remote service unit available for use by other
40 banks and their customers on a nondiscriminatory basis, conditioned upon
41 payment of a reasonable proportion of all costs, including a reasonable
42 return on capital expenditures incurred in connection with the
43 development, installation and operation of the remote service unit.

1 Notwithstanding the foregoing provisions of this subsection, a remote
2 service unit located on the property owned or leased by the bank where the
3 principal place of business of a bank, or branch bank of a bank, is located
4 need not be made available for use by any other bank or banks or
5 customers of any other bank or banks;.

6 (h) For purposes of this section, "remote service unit" means an
7 electronic information processing device, including associated equipment,
8 structures and systems, through or by means of which information relating
9 to financial services rendered to the public is stored and transmitted to a
10 bank and ~~which that~~, for activation and account access, is dependent upon
11 the use of a machine-readable instrument in the possession and control of
12 the holder of an account with a bank or ~~is~~ activated by a person upon
13 verifiable personal identification. ~~The term shall include "Remote service~~
14 ~~unit" includes "online" computer terminals which that~~ may be equipped
15 with a telephone or televideo device that allows contact with bank
16 personnel and "offline" automated cash dispensing machines and
17 automated teller machines. Withdrawals by means of "offline" systems
18 shall not exceed \$300 per transaction and shall be restricted to individual,
19 not corporate or commercial, accounts;.

20 (i) Upon providing notice to the commissioner, any state bank may
21 conduct loan production activity at locations other than the place of
22 business specified in the bank's certificate of authority or approved branch
23 banks.

24 (1) Loan production activity shall consist of the following:

25 (A) Soliciting, assembling or processing of credit information and
26 loan applications;

27 (B) approval of loan applications; or

28 (C) loan closing activities, such as the execution of promissory notes
29 and deeds of trust.

30 (2) No customer shall be allowed to take actual receipt of the loan
31 funds;.

32 (j) Upon providing notice to the commissioner, any state bank may
33 conduct deposit production activity at locations other than the place of
34 business specified in the bank's certificate of authority or approved branch
35 banks provided there is no acceptance of actual deposits in person or by
36 drop box;.

37 (k) Upon providing notice to the commissioner, any state bank may
38 provide any of the following at a location other than the place of business
39 specified in the bank's certificate of authority without becoming a branch
40 bank:

41 (1) Operate safe deposit boxes;

42 (2) sell travelers checks and saving bonds; and

43 (3) operate ~~check-cashing~~ *check-cashing* services ~~so long as if no~~

1 actual account withdrawal occurs;

2 (l) any bank or trust company closing a branch bank, loan production
3 office, deposit production office or other location shall provide notice to
4 the commissioner.

5 Sec. 3. K.S.A. 9-1114 is hereby amended to read as follows: 9-1114.

6 (a) The business of any bank or trust company shall be managed and
7 controlled by such bank's or trust company's board of directors.

8 (b) The board shall consist of not ~~less~~ *fewer* than five nor more than
9 25 members who shall be elected by the stockholders at any regular annual
10 meeting ~~which~~ *that* shall be held on the date specified in the bank's or trust
11 company's bylaws. A majority of the directors shall be residents of this
12 state. Minutes shall be made of each stockholders' meeting of a bank or
13 trust company. The minutes shall show any action taken by the
14 stockholders, including the election of all directors.

15 (c) If, for any reason, the meeting cannot be held on the date specified
16 in the bylaws, the meeting shall be held on a subsequent day within 60
17 days of the day fixed, to be designated by the board of directors, or, if the
18 directors fail to fix the day, by the shareholders representing $\frac{2}{3}$ of the
19 shares.

20 (d) In all cases, at least 10 days' notice of the date for the annual
21 meeting shall ~~have been~~ *be* given by first-class mail to the shareholders.

22 (e) Any newly created directorship ~~must~~ *shall* be approved and
23 elected by the shareholders in the manner provided in the general
24 corporation code. A special meeting of the shareholders may be convened
25 at any time for such purpose.

26 (f) Any vacancy in the board of directors may be filled by the board
27 of directors in the manner provided in the general corporation code.

28 (g) Any director of any bank or trust company who ~~shall become~~
29 *becomes* indebted to such bank or trust company on any judgment or
30 whose indebtedness is charged off or forgiven shall forfeit such person's
31 position as director.

32 (h) Within 15 days after the annual meeting, the president or cashier
33 of every bank and every trust company shall submit to the commissioner a
34 certified list of stockholders and the number of shares owned by each. This
35 list of stockholders shall be kept and maintained in the bank's or trust
36 company's main office and shall be subject to inspection by all
37 stockholders during the business hours of the bank or trust company. The
38 commissioner may require the list to be filed using an electronic means.

39 (i) Each director shall take and subscribe an oath to administer the
40 affairs of such bank or trust company diligently and honestly and to not
41 knowingly or willfully permit any of the laws relating to banks or trust
42 companies to be violated. A copy of each oath shall be retained by the
43 bank or trust company in the bank's or trust company's records ~~after the~~

1 ~~election of any officer or director~~, for review by the commissioner's staff
2 during the next examination. *Each bank and trust company shall file an*
3 *oath with the commissioner within 15 days of the election of any officer or*
4 *director. The commissioner may require the oath to be filed using an*
5 *electronic means.*

6 (j) ~~Every~~*Each* bank and trust company shall notify the commissioner
7 of ~~any change in the newly appointed~~ chief executive officer, president or
8 directors *prior to the commencement of any such individual's duties,*
9 including in such bank's or trust company's report a statement of the past
10 and current business and professional affiliations of the new chief
11 executive officer, president or directors. *Each bank and trust company*
12 *shall notify the commissioner of any chief executive officer, president or*
13 *director that is voluntarily or involuntarily relieved from the position*
14 *duties within five business days.*

15 Sec. 4. K.S.A. 9-1724 is hereby amended to read as follows: 9-1724.

16 (a) The provisions of K.S.A. 9-1720 through 9-1724, and amendments
17 thereto, shall not apply to the merger transaction of a bank or trust
18 company when the surviving entity is a national banking association or
19 other state or federally chartered financial institution or a trust company,
20 except that the bank or trust company shall provide written notification to
21 the commissioner of such a merger, consolidation or transfer of assets and
22 liabilities at least 10 days prior to the consummation of any such
23 transaction.

24 (b) *Any bank or trust company that will cease to exist following the*
25 *consummation of any approved merger transaction shall have its charter*
26 *deemed void on the next business day immediately following the merger*
27 *consummation date. Not more than 15 days following any merger*
28 *transaction, any bank or trust company that will cease to exist shall*
29 *surrender such bank's or trust company's state certificate of authority or*
30 *charter and shall certify in writing that the proper instruments have been*
31 *executed and filed in accordance with K.S.A. 17-6003, and amendments*
32 *thereto.*

33 (c) Notice of the merger transaction shall be published twice in a
34 newspaper of general circulation in each city or county ~~in which~~ *where* the
35 bank or trust company is located, or the newspaper nearest such city or
36 county, and a certified copy of each notice shall be filed with the
37 commissioner. The first publication shall be ~~no~~ *not* later than five days
38 after an application is filed. The second publication shall be on the 14th day
39 after the date of the first publication or, if the newspaper does not publish
40 on the 14th day, then the date that is the closest to the 14th day. The notice
41 shall be in the form prescribed by the commissioner and shall provide for a
42 comment period of not less than 10 days after the date of the second
43 publication.

1 Sec. 5. K.S.A. 9-1807 is hereby amended to read as follows: 9-1807.

2 (a) If the commissioner finds that any bank or trust company is engaging,
3 has engaged or is about to engage in an unsafe or unsound practice or if
4 the commissioner finds that any bank or trust company is violating, has
5 violated or is about to violate a law, rule and regulation or order of the
6 commissioner or state banking board, the commissioner may issue and
7 serve upon the bank or trust company a notice of charges. The notice of
8 charges shall contain a statement of the facts that forms the basis for a
9 proposed cease and desist order and shall state the time and place ~~at which~~
10 that a hearing will be held by the state banking board to determine whether
11 an order to cease and desist therefrom should be issued by the state
12 banking board against the bank or trust company. Such hearing shall be
13 fixed for a date not earlier than 30 days nor later than 60 days after service
14 of such notice *and shall be held in accordance with the Kansas*
15 *administrative procedure act.*

16 (b) Unless the bank or trust company ~~shall appear~~ *appears* at the
17 hearing, such bank or trust company shall be deemed to have consented to
18 the issuance of the cease and desist order. In the event of such consent; or
19 if, upon the record made at any such hearing, the state banking board ~~shall~~
20 *find finds* that any unsafe or unsound practice or violation specified in the
21 notice of charges has been established, the state banking board may issue
22 and serve upon the bank or trust company an order to cease and desist
23 from any such practice or violation. Such order may require the bank or
24 trust company and such bank's or trust company's directors, officers,
25 employees or agents to cease and desist or to take affirmative action to
26 correct the conditions resulting from any such practice or violation. A
27 cease and desist order shall become effective at the time specified therein
28 and shall remain effective and enforceable as provided therein, except to
29 such extent as it is stayed, modified or terminated by the state banking
30 board.

31 (c) Whenever the commissioner finds that a bank's or trust company's
32 unsafe or unsound practice or violation, or the continuation thereof, is
33 likely to cause insolvency, substantial dissipation of assets or earnings or is
34 likely to ~~otherwise~~ seriously prejudice the interests of the bank's depositors
35 or trust company's clients, the commissioner may issue a temporary order
36 requiring the bank or trust company to cease and desist from any such
37 practice or violation. The order shall contain a notice of charges with a
38 statement of the facts that forms the basis for a proposed temporary cease
39 and desist order. Such order shall be effective upon service on the bank or
40 trust company and shall remain effective and enforceable pending the
41 completion of the proceedings pursuant to such notice and until such time
42 as the state banking board ~~shall dismiss~~ *dismisses* the charges specified in
43 such notice; or, if a cease and desist order is issued against the bank or

1 trust company, until the effective date of any such order.

2 Sec. 6. K.S.A. 9-2011 is hereby amended to read as follows: 9-2011.

3 (a) It shall be unlawful for any individual, firm or corporation to advertise,
4 publish or otherwise promulgate that—~~the~~ *such* individual, firm or
5 corporation is engaged in the banking business—~~or trust business~~ without
6 first having obtained authority from the commissioner, *unless its deposits*
7 *are federally insured and either chartered in Kansas, another state or the*
8 *federal government.*

9 (b) *It shall be unlawful for any individual, firm or corporation to*
10 *advertise, publish or otherwise communicate that such individual, firm or*
11 *corporation is engaged in the trust business without first having obtained*
12 *authority from the commissioner, unless the entity is a federally insured*
13 *bank or credit union and has authorization from another state or the*
14 *federal government to engage in trust business in Kansas.*

15 (c) Any such individual or member of any such firm or officer of any
16 such corporation violating this section, upon conviction, shall be guilty of
17 a class A, nonperson misdemeanor.

18 Sec. 7. K.S.A. 2024 Supp. 9-2107 is hereby amended to read as
19 follows: 9-2107. (a) As used in this section:

20 (1) "Contracting trustee" means any trust company, as defined in
21 K.S.A. 9-701, and amendments thereto, any bank that has been granted
22 trust authority by the commissioner under K.S.A. ~~9-1602~~ 9-1601, and
23 amendments thereto, any national bank chartered to do business in Kansas
24 that has been granted trust authority by the comptroller of the currency
25 under 12 U.S.C. § 92a, any bank that has been granted trust authority or
26 any trust company, regardless of where such bank or trust company is
27 located, that is controlled, as defined in K.S.A. 9-1612, and amendments
28 thereto, by the same bank holding company as any trust company, state
29 bank or national bank chartered to do business in Kansas, ~~which~~ *that*
30 accepts or succeeds to any fiduciary responsibility as provided in this
31 section;

32 (2) "originating trustee" means any trust company, bank, national
33 banking association, savings and loan association or savings bank that has
34 trust powers and places or transfers any fiduciary responsibility to a
35 contracting trustee as provided in this section; and

36 (3) "financial institution" means any bank, national banking
37 association, savings and loan association or savings bank that has its
38 principal place of business in this state but that does not have trust powers.

39 (b) Any contracting trustee and any originating trustee may enter into
40 an agreement by which the contracting trustee, without any further
41 authorization of any kind, succeeds ~~to~~ and is substituted for the originating
42 trustee as to all fiduciary powers, rights, duties, privileges and liabilities
43 with respect to all accounts ~~for which~~ *that* the originating trustee serves in

1 any fiduciary capacity, except as may be provided otherwise in the
2 agreement. Notwithstanding the provisions of this section, either the
3 contracting trustee or the originating trustee shall have its principal place
4 of business in this state.

5 (c) Unless the agreement expressly provides otherwise, upon the
6 effective date of the substitution:

7 (1) The contracting trustee shall be deemed to be named as the
8 fiduciary in all writings, including, without limitation, trust agreements,
9 wills and court orders, ~~which~~ *that* pertain to the affected fiduciary
10 accounts; and

11 (2) the originating trustee is absolved from all fiduciary duties and
12 obligations arising ~~under~~ *from* such writings and shall discontinue the
13 exercise of any fiduciary duties with respect to such writings, except that
14 the originating trustee is not absolved or discharged from any duty to
15 account required by K.S.A. 59-1709, and amendments thereto, or any
16 other applicable statute, rule of law, rules and regulations or court order,
17 nor shall the originating trustee be absolved from any breach of fiduciary
18 duty or obligation occurring prior to the effective date of the agreement.

19 (d) The agreement may authorize the contracting trustee:

20 (1) To establish a trust service desk at any office of the originating
21 trustee at which the contracting trustee may conduct any trust business and
22 any business incidental thereto and which the contracting trustee may
23 otherwise conduct at its principal place of business; and

24 (2) to engage the originating trustee as the agent of the contracting
25 trustee, on a disclosed basis to customers, for the purposes of providing
26 administrative, advertising and safekeeping services incident to the
27 fiduciary services provided by the contracting trustee.

28 (e) Any contracting trustee may enter into an agreement with a
29 financial institution providing that the contracting trustee may establish a
30 trust service desk as authorized by subsection (d) in the offices of such
31 financial institution and ~~which provides~~ *that* such financial institution, on a
32 disclosed basis to customers, may act as the agent of contracting trustee for
33 purposes of providing administrative services and advertising incident to
34 the fiduciary services to be performed by the contracting trustee.

35 (f) No activity authorized by subsections (b) through (e) shall be
36 conducted by any contracting trustee, originating trustee or financial
37 institution until an application for such authority has been submitted to and
38 approved by the commissioner. The application shall be in the form and
39 contain the information required by the commissioner, ~~which~~ *and* shall, at
40 a minimum, include certified copies of the following documents:

41 (1) The agreement;

42 ~~(2) the written action taken by the board of directors of the~~
43 ~~originating trustee or financial institution approving the agreement;~~

1 (3)—all other required regulatory approvals; and

2 ~~(4) proof of publication of notice that the applicant intends to file or~~
3 ~~has filed an application pursuant to this section. The notice shall be~~
4 ~~published in a newspaper of general circulation in the county where the~~
5 ~~principal office of the originating trustee or financial institution is located.~~
6 ~~The notice shall be in the form prescribed by the commissioner and shall~~
7 ~~contain the name of the applicant contracting trustee and the originating~~
8 ~~trustee, and a solicitation for written comments. The notice shall be~~
9 ~~published on the same day for two consecutive weeks and provide for a~~
10 ~~comment period of not less than 10 days after the date of the second~~
11 ~~publication; and~~

12 (5)(3) a certification by the parties to the agreement that written
13 notice of the proposed substitution was sent by first-class mail to each co-
14 fiduciary, each surviving settlor of a trust, each ward of a guardianship,
15 each person that has sole or shared power to remove the originating trustee
16 as fiduciary and each adult beneficiary currently receiving or entitled to
17 receive a distribution of principle or income from a fiduciary account
18 affected by the agreement; and that such notice was sent to each such
19 person's address as shown in the originating trustee's records. An
20 unintentional failure to give such notice shall not impair the validity or
21 effect of any such agreement, except that an intentional failure to give
22 such notice shall render the agreement null and void as to the party not
23 receiving the notice of substitution.

24 (g) *If the originating trustee or financial institution is transferring*
25 *more than 50% of the financial institution's total fiduciary accounts, the*
26 *commissioner shall require the following certified copies in addition to the*
27 *requirements described in subsection (f):*

28 (1) *The written action taken by the board of directors of the*
29 *originating trustee or financial institution approving the agreement; and*

30 (2) *proof of publication of notice that the applicant intends to file or*
31 *has filed an application pursuant to this section. The notice shall be*
32 *published in a newspaper of general circulation in the county where the*
33 *principal office of the originating trustee or financial institution is located.*
34 *The notice shall be in the form prescribed by the commissioner and shall*
35 *contain the name of the applicant contracting trustee and the originating*
36 *trustee and a solicitation for written comments. The notice shall be*
37 *published on the same day and every day thereafter for two consecutive*
38 *weeks and provide for a comment period of not less than 10 days after the*
39 *date of the second publication.*

40 (h) A contracting trustee making application to the commissioner for
41 approval of any agreement pursuant to this section shall pay to the
42 commissioner a fee, in an amount established pursuant to K.S.A. 9-1726,
43 and amendments thereto, to defray the expenses of the commissioner in

1 the examination and investigation of the application. The commissioner
2 shall remit all moneys received under this section to the state treasurer in
3 accordance with the provisions of K.S.A. 75-4215, and amendments
4 thereto. Upon receipt of each such remittance, the state treasurer shall
5 deposit the entire amount in the state treasury to the credit of the bank
6 investigation fund. The moneys in the bank investigation fund shall be
7 used to pay the expenses of the commissioner, or designee, in the
8 examination and investigation of such applications and any unused balance
9 shall be transferred to the bank commissioner fee fund.

10 ~~(h)~~(i) Upon the filing of a complete application with the
11 commissioner, the commissioner shall make or cause to be made, a careful
12 examination and investigation of the proposed agreement. If the
13 commissioner finds any of the following matters unfavorably, the
14 commissioner may deny the application:

15 (1) The reasonable probability of usefulness and success of the
16 contracting trustee; and

17 (2) the financial history and condition of the contracting trustee
18 including the character, qualifications and experience of the officers
19 employed by the contracting trustee.

20 ~~(i)~~(j) The commissioner shall render approval or disapproval of the
21 application within 90 days of receiving a complete application.

22 ~~(j)~~(k) Upon service of an order denying an application, the applicant
23 shall have the right to a hearing to be conducted in accordance with the
24 Kansas administrative procedure act before the state banking board. Any
25 final order of the commissioner pursuant to this section is subject to
26 review in accordance with the Kansas judicial review act.

27 ~~(k)~~(l) When the commissioner determines that any contracting trustee
28 domiciled in this state has entered into a contracting agreement in violation
29 of the laws governing the operation of such contracting trustee, the
30 commissioner may take such action as available under K.S.A. 9-1714, 9-
31 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such
32 violation.

33 ~~(l)~~(m) Any party entitled to receive a notice under subsection (f)~~(5)~~
34 (3) may file a petition in the court having jurisdiction over the fiduciary
35 relationship, or if none, in the district court in the county where the
36 originating trustee has its principal office, seeking to remove any
37 contracting trustee substituted or about to be substituted as fiduciary
38 pursuant to this section. Unless the contracting trustee files a written
39 consent to its removal or a written declination to act subsequent to the
40 filing of the petition, the court, upon notice and hearing, shall determine
41 the best interest of the petitioner and all other parties concerned and shall
42 fashion such relief as the court deems appropriate in the circumstances,
43 including the awarding of reasonable attorney fees. The right to file a

1 petition under this subsection shall be in addition to any other rights to
2 remove the fiduciary provided by any other statute or regulation or by the
3 writing creating the fiduciary relationship. If the removal of the fiduciary
4 is prompted solely as a result of the contracting agreement, any reasonable
5 cost associated with such removal and transfer shall be paid by the
6 originating trustee or financial institution entering into the agreement.

7 Sec. 8. K.S.A. 9-2108 is hereby amended to read as follows: 9-2108.
8 It is unlawful for any trust company to establish or operate a trust service
9 office or relocate an existing trust service office except as provided herein.

10 (a) As used in this section: "Trust service office" means any office,
11 agency or other place of business located within this state, other than the
12 place of business specified in the trust company's certificate of authority, at
13 which the powers granted to trust companies under K.S.A. 9-2103, and
14 amendments thereto, are exercised. For the purposes of this section, any
15 activity in compliance with K.S.A. 9-2107, and amendments thereto, does
16 not constitute a trust service office.

17 (b) After first applying for and obtaining the approval of the
18 commissioner under this section, one or more trust service offices may be
19 established or operated in any city within this state by a trust company
20 incorporated under the laws of this state.

21 (c) An application to establish or operate a trust service office or to
22 relocate an existing trust service office shall be in the form and manner
23 prescribed by the commissioner and provide the following documents:

24 (1) A certified copy of the written action taken by the board of
25 directors of the trust company approving the establishment or operation of
26 the proposed trust service office or the proposed relocation of the trust
27 service office;

28 (2) all other required regulatory approvals;

29 (3) proof of publication of notice that the applicant intends to file or
30 has filed an application pursuant to this section. The notice shall be
31 published in a newspaper of general circulation where the proposed trust
32 service office is to be located. The notice shall be in the form prescribed by
33 the commissioner and shall contain the name of the applicant, the location
34 of the proposed trust service office and a solicitation for written comments.
35 The notice shall be published on the same day *and every day thereafter* for
36 two consecutive weeks and provide for a comment period of not less than
37 10 days after the date of the second publication; and

38 (4) the application shall include the name selected for the proposed
39 trust service office. The name selected for the proposed trust service office
40 shall not be the same or substantially similar to the name of any other trust
41 company or trust service office doing business in the state of Kansas, nor
42 shall the name selected be required to contain the name of the applicant
43 trust company. If the name selected for the proposed trust service office

1 does not contain the name of the applicant trust company, the trust service
2 office shall provide in the public lobby of such trust service office; a public
3 notice that it is a trust service office of the applicant trust company. Any
4 trust company may request *an* exemption from the commissioner from the
5 provisions of this subsection.

6 (d) A trust company making application to the commissioner for
7 approval of a trust service office under this section shall pay to the
8 commissioner a fee, in an amount established pursuant to K.S.A. 9-1726,
9 and amendments thereto, to defray the expenses of the commissioner in
10 the examination and investigation of the application. The commissioner
11 shall remit all moneys received under this section to the state treasurer in
12 accordance with the provisions of K.S.A. 75-4215, and amendments
13 thereto. Upon receipt of each such remittance, the state treasurer shall
14 deposit the entire amount in the state treasury to the credit of the bank
15 investigation fund. The moneys in the bank investigation fund shall be
16 used to pay the expenses of the commissioner or designee in the
17 examination and investigation of such applications and any unused balance
18 shall be transferred to the bank commissioner fee fund.

19 (e) Upon the request of any trust company proposing to relocate an
20 existing trust service office *to less than ~~one mile~~ 10 miles* from the trust
21 company's existing location, the commissioner may exempt such trust
22 company from the requirements of this section. *If an exemption is*
23 *provided under this subsection, each trust company shall document the*
24 *written action taken by the board of directors of the trust company*
25 *approving the proposed relocation of the trust service office and all other*
26 *required regulatory approvals.*

27 (f) Upon the filing of a complete application with the commissioner,
28 the commissioner shall make or cause to be made, a careful examination
29 and investigation. If the commissioner finds any of the following matters
30 unfavorably, the commissioner may deny the application:

31 (1) The reasonable probability of usefulness and success of the
32 proposed trust service office; and

33 (2) the applicant trust company's financial history and condition
34 including the character, qualifications and experience of the officers
35 employed by the trust company.

36 (g) Upon service of an order denying an application, the applicant
37 shall have the right to a hearing to be conducted in accordance with the
38 Kansas administrative procedure act before the state banking board. Any
39 final order of the state banking board pursuant to this section is subject to
40 review in accordance with the Kansas judicial review act.

41 (h) When the commissioner determines that a trust company
42 domiciled in this state has established or is operating a trust service office
43 in violation of the laws governing the operation of such trust company, the

1 commissioner may take such action as available under K.S.A. 9-1714, 9-
2 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such
3 violation.

4 Sec. 9. K.S.A. 9-2111 is hereby amended to read as follows: 9-2111.

5 (a) Except as provided in K.S.A. 9-2107, and amendments thereto, no trust
6 company, trust department of a bank, corporation or other business entity;
7 ~~the with a home office of which is located outside the state of Kansas;~~
8 shall establish or operate a trust facility within the state of Kansas, unless
9 the laws of the state where the home office of the nonresident trust
10 company, trust department of a bank, corporation or other business entity
11 is located authorize a ~~Kansas-chartered~~ *Kansas-chartered* trust company,
12 trust department of a bank, corporation or other business entity to establish
13 or operate a trust facility within that state. *The commissioner may require*
14 *any nonresident trust company to meet the greater of the requirements*
15 *stated under the banking code or the laws of the nonresident trust*
16 *company's home state required for a Kansas trust company to do business*
17 *in the nonresident trust company's home state.*

18 (b) Before any nonresident trust company, trust department of a bank,
19 corporation or other business entity establishes a trust facility in Kansas, a
20 copy of the application submitted to the home state; and proof that the
21 home state authorizes a ~~Kansas-chartered~~ *Kansas-chartered* trust company,
22 trust department of a bank, corporation or other business entity to establish
23 or operate a trust facility within that state, ~~must~~ *shall* be filed by the
24 applicant with the commissioner.

25 (c) No Kansas trust company shall establish an out-of-state trust
26 facility until an application has been filed with the commissioner and
27 approval has been received. An application filed pursuant to this section
28 shall be subject to the provisions in K.S.A. 9-2108, and amendments
29 thereto.

30 (d) No Kansas bank with a trust department shall establish an out-of-
31 state trust facility until an application has been filed with the commissioner
32 and approval has been received. An application filed pursuant to this
33 section shall be subject to the provisions in K.S.A. 9-1111, and
34 amendments thereto.

35 (e) As used in this section, "trust facility" means any office, agency,
36 desk or other place of business ~~at which trust~~ *where* business is conducted.

37 (f) Any Kansas trust company or Kansas bank making application to
38 the commissioner pursuant to subsection (c) or (d) shall pay to the
39 commissioner a fee to be established pursuant to K.S.A. 9-1726, and
40 amendments thereto, to defray the expenses of the commissioner in the
41 examination and investigation of the application. The commissioner shall
42 remit all moneys received under this section to the state treasurer in
43 accordance with the provisions of K.S.A. 75-4215, and amendments

1 thereto. Upon receipt of each such remittance, the state treasurer shall
2 deposit the entire amount in the state treasury to the credit of the bank
3 investigation fund. The moneys in the bank investigation fund shall be
4 used to pay the expenses of the commissioner in the examination and
5 investigation of such applications and any unused balance shall be
6 transferred to the bank commissioner fee fund.

7 Sec. 10. K.S.A. 9-519, 9-1111, 9-1114, 9-1724, 9-1807, 9-2011, 9-
8 2101, 9-2108, 9-2111 and 16-842 and K.S.A. 2024 Supp. 9-2107 are
9 hereby repealed.

10 Sec. 11. This act shall take effect and be in force from and after its
11 publication in the statute book.