

State Banking Code Updates; SB 139

SB 139 amends the State Banking Code (Banking Code) as follows:

- Requires administrative hearings to be held in accordance with the Kansas Administrative Procedure Act when determining whether a bank is a holding company and whether a cease-and-desist order should be issued by the State Banking Board;
- Requires notification to be provided to the State Bank Commissioner (Commissioner) regarding changes to key leadership positions of bank and trust companies;
- Addresses when the charter of a bank or trust company would be void after an approved merger;
- Exempts certain bank or trust companies from approval by the Commissioner to lawfully engage in banking or trust business in the state;
- Removes the requirement that certain certified documents be provided with an application for the contracting of trust services if certain conditions are met;
- Expands the allowable distance for the relocation of a trust office; and
- Amends the requirements for non-resident trust companies to do business in Kansas.

Definition Pertaining to Bank Holding Companies

The bill amends the definition of a “bank holding company” to specify that a hearing to determine whether a bank is a holding company must be conducted in accordance with the Kansas Administrative Procedure Act.

Notification Requirements of Changes in Key Positions of Bank and Trust Companies

The bill requires each bank and trust company to file an oath with the Commissioner within 15 days of the election of any officer or director. The bill requires each bank and trust company to notify the Commissioner of:

- Any newly appointed chief executive officer, president, or directors prior to the commencement of such individuals’ duties; and
- Any executive officer, president, or director who is voluntarily or involuntarily relieved from the position’s duties within five business days.

Mergers Resulting in a National Bank

The bill requires the charter of a bank or trust company that will cease to exist after an approved merger to be deemed void on the next business day immediately following the merger consummation date.

Administrative Hearing Requirement on Cease-and-desist Orders

The bill requires administrative hearings that determine whether a cease-and-desist order should be issued by the State Banking Board be held in accordance with the Kansas Administrative Procedure Act.

Exemption from Commissioner's Approval to Lawfully Engage in Banking or Trust Company Business

The bill exempts banks with federally insured deposits that are chartered in Kansas, in another state, or by the federal government from first having to obtain authority from the Commissioner to lawfully engage in the banking business.

The bill also provides that a federally insured bank or credit union with authorization from another state or the federal government to engage in trust business in Kansas is exempt from the provision that makes it unlawful for any individual, firm, or corporation to advertise, publish, or otherwise communicate that such entity is engaged in the trust business without first having obtained authority from the Commissioner.

Documents Required for an Application for the Contracting of Trust Services

The bill removes the requirement that the following certified copies be provided with the application made to the Commissioner for the contracting of trust services:

- The written action taken by the board of directors of the originating trustee or financial institution approving the agreement; and
- Proof of publication of notice that the applicant intends to file or has filed an application.

However, if the originating trustee or financial institution is transferring more than 50 percent of the financial institution's total fiduciary accounts, the bill requires that certified copies of the two documents referenced above be included with the application for the contracting of trust services.

Relocation of a Trust Office

The bill extends the Commissioner's authority to exempt from the application process a trust company proposing to relocate an existing trust service office to less than ten miles from

the trust company's existing location, changed from allowing such an exemption only for a relocation less than one mile from the existing location.

If an exemption is granted, the bill requires each trust company to document the written action taken by the board of directors of the trust company approving the proposed relocation of the trust office and all other required regulatory approvals.

Requirements for Non-resident Trust Companies to Do Business in Kansas

The bill allows the Commissioner to require any non-resident trust company to meet the greater of the requirements stated under the Banking Code or the laws of the non-resident trust company's home state required for a Kansas trust company to do business in the non-resident trust company's home state.

Additional Statutes Repealed

The bill repeals the following statutes not amended in the bill:

- KSA 9-2101, pertaining to the issuance by the Commissioner of a certificate of authority as a bank to a trust company authorized to accept deposits upon the surrender of such trust company's charter; and
- KSA 16-842, pertaining to when a credit card holder is liable for unauthorized use and the actions for enforcement of liability.