

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 287** submits the following report:

The Senate accedes to all House amendments to the bill and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 287 as follows:

On page 4, in line 2, after "administrator" by inserting "and approved by the governor"; in line 4, by striking "geographic"; by striking all in lines 5 through 7 and inserting "The administrator's salary schedule for unclassified positions shall be reported to the credit union council annually."; in line 19, by striking the second "and" and inserting a comma; in line 20, before the period by inserting "and shall receive compensation in accordance with an equitable salary schedule established by the administrator and approved by the governor for all unclassified positions"; in line 25, by striking "geographic";

On page 6, following line 13, by inserting the following:

"Sec. 4. K.S.A. 2011 Supp. 9-508 is hereby amended to read as follows: 9-508. As used in this act:

(a) "Agent" means an entity or person designated by the licensee, or by an exempt entity, to engage in the business of transmitting money on behalf of the licensee, or an exempt entity, at one or more physical locations throughout the state or through the internet;

~~(a)~~(b) "commissioner" means the state bank commissioner;

~~(b)~~(c) "electronic instrument" means a card or other tangible object for the transmission or payment of money, including a stored value card or device which contains a microprocessor chip, magnetic stripe or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in goods or services;

~~(c)~~(d) "monetary value" means a medium of exchange, whether or not redeemable in money;

~~(d)~~(e) "money transmission" means to engage in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States by wire, facsimile, electronic means or any other means;

~~(e)~~(f) "outstanding payment instrument" means any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any money order or instrument issued by the licensee which has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee;

~~(f)~~(g) "payment instrument" means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services;

~~(g)~~(h) "permissible investments" means:

(1) Cash;

~~(2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;~~

~~(3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the federal reserve system;~~

~~(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;~~

~~(5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any general obligations of any state, municipality or any political subdivision thereof;~~

~~(6) deposits in a demand or interest bearing account with a domestic federally insured depository institution, including certificates of deposit;~~

(3) debt obligations of a domestic federally insured depository institution;

(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;

(5) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States;

(6) obligations that a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(7) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;

~~(7) any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;~~

~~(8) receivables which are due to a licensee from its authorized such licensee's agents pursuant to a contract, which are not past due or doubtful of collection and which do not exceed in the aggregate 20% of the total required permissible investments pursuant to K.S.A. 9-513b, and amendments thereto; or~~

~~(9) any other investment or security device approved by the commissioner.~~

~~(h)(i) "Person" means any individual, partnership, association, joint-stock association, trust, corporation or any other form of business enterprise authorized to do business in this state; and~~

~~(i)(j) "stored value" means monetary value that is evidenced by an electronic record.~~

Sec. 5. K.S.A. 2011 Supp. 9-509 is hereby amended to read as follows: 9-509. (a) No person shall engage in the business of selling, issuing or delivering its payment instrument, check, draft, money order, personal money order, bill of exchange, evidence of indebtedness or other instrument for the transmission or payment of money or otherwise engage in the business of money transmission with a resident of this state, or, except as provided in K.S.A. 9-510, and amendments thereto, act as agent for another in the transmission of money as a service or for a fee or other consideration, unless such person obtains a license from the commissioner.

~~(b)(1) An application for a license shall be submitted on forms prescribed by the commissioner. The application shall be accompanied by an application fee as established by rules and regulations adopted by the commissioner in the form and manner prescribed by the commissioner. The application shall be accompanied by nonrefundable fees established by the commissioner for the license and each agent location. Such fees shall be due annually on July 1. A license shall be renewed by filing with the commissioner a complete application and nonrefundable application fees at least 30 days prior to expiration of the license as reflected on the face of the license certificate. The commissioner shall determine the amount of such fees to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year. For the purposes of this subsection, "each agent location" means each physical location within the state where money transmission is conducted, including, but not limited to, branch offices, authorized vendor offices, delegate offices, kiosks and drop boxes.~~

~~(2) The commissioner may require fingerprinting of any individual, officer, director, partner, member, shareholder or any other person related to the application deemed necessary by the commissioner. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, or in the case of an applicant company, the persons associated with the company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application. If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, no fingerprint check shall be required.~~

~~(3) In addition, each person submitting an application shall meet the following requirements:~~

~~(A) The net worth of such person shall be at all times not less than \$250,000, as shown by an audited financial statement and certified to by an owner, a partner or officer of the corporation or other entity in a form prescribed by the commissioner and filed in the commissioner's office filed in the form and manner prescribed by the commissioner. The commissioner may require any person to file a statement at any other time upon request;~~

~~(B) such person shall deposit and at all times keep on deposit with the state treasurer, or a bank in this state approved by the commissioner, cash or securities satisfactory to the commissioner in an amount not less than \$200,000. The commissioner may increase the amount of cash or securities required up to a maximum of \$500,000 upon the basis of the impaired financial condition of a person, as evidenced by a reduction in net worth, financial losses or other relevant criteria as determined by the commissioner;~~

~~(C) in lieu of the deposit of cash or securities required by paragraph (B), such person may give a surety bond in an amount equal to that required for the deposit of cash or securities, in a form satisfactory to the commissioner and issued by a company authorized to do business in this state, which bond shall be payable to the office of the state bank commissioner and be filed with the commissioner. The deposit of cash or securities or surety bond shall be for the protection and benefit of purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person or for the protection of those for whom such person has agreed to act as agent in the transmission of monetary value and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of monetary value. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved~~

party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person; and

~~(4)(D)~~ such person shall submit a list to the commissioner of the names and addresses of other persons who are authorized to act as ~~selling~~ agents for transactions with Kansas residents.

~~(c) The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act at such person's expense to verify compliance with state and federal law deposit of cash, securities or surety bond required by this section shall be subject to:~~

~~(1) Payment to the commissioner for the protection and benefit of purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person, and those for whom such person has agreed to act as agent in transmission of monetary value and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of monetary value; and~~

~~(2) payment to the commissioner for satisfaction of any expenses, fines, fees or refunds due pursuant to this act, levied by the commissioner or that become lawfully due pursuant to a final judgment or order.~~

~~(d) The aggregate liability of the surety for all breaches of the conditions of the bond, in no event, shall exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person.~~

~~(e) (1) The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act, at such person's expense, to verify compliance with state and federal law.~~

~~(2) For purposes of investigation, examination or other proceeding under this act, the commissioner may administer or cause to be administered oaths, subpoena witnesses and documents, compel the attendance of witnesses, take evidence and require the production of any document that the commissioner determines to be relevant to the inquiry.~~

Sec. 6. K.S.A. 2011 Supp. 9-510 is hereby amended to read as follows: 9-510. ~~Any person complying with the provisions of this act may engage in such business.~~ A licensee may engage in the business of money transmission at one or more locations in this state and through or by means of such agents as such person may designate and appoint from time to time. A verified list of agents shall be furnished annually to the commissioner by persons operating hereunder, on a date prescribed by the commissioner. No such agent shall be required to comply with the licensing provisions of this act.

Sec. 7. K.S.A. 2011 Supp. 9-511 is hereby amended to read as follows: 9-511. ~~This act shall not apply to banks, building and loan associations, savings and loan associations, savings banks or credit unions organized under the laws of and subject to the supervision of this state, another state or the United States, or to the government of the United States and its agencies, or to the state of Kansas and its agencies. This act also shall not apply to the distribution, transmission or payment of money as a part of the lawful practice of law, bookkeeping, accounting or real estate sales or brokerage or as an incidental and necessary part of any lawful business activity. This act shall not apply to:~~

~~(a) (1) Banks, building and loan associations, savings and loan associations, savings banks or credit unions, including agents of any of these business entities, organized under the laws of and subject to the supervision of this state, another state or the United States;~~

~~(2) the government of the United States and its agencies, including agents of the government and its agencies; or~~

~~(3) the state of Kansas and its agencies, including agents of the state of Kansas and its agencies.~~

~~(b) This act also shall not apply to the distribution, transmission or payment of money as a part of the lawful practice of law, bookkeeping, accounting or real estate sales or brokerage or as an incidental and necessary part of any lawful business activity.~~

Sec. 8. K.S.A. 2011 Supp. 9-512 is hereby amended to read as follows: 9-512. (a) The commissioner, after notice and an opportunity for hearing, may issue an order to address any violation of this act:

(1) Assessing a fine against any person who violates this act, or rules and regulations adopted thereto, in an amount not to exceed \$5,000 per violation;

(2) assessing the agency's operating costs and expenses for investigating and enforcing this act;

(3) requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation;

(4) barring the person from future application for licensure pursuant to the act; and

(5) requiring such affirmative action as in the judgment of the commissioner which will carry out the purposes of this act.

(b) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act, rules and regulations adopted thereto, or an order issued pursuant to this act.

(c) Any person who knowingly violates any provision of this act shall be guilty of a severity level 9, nonperson felony. Each transaction in violation of this act and each day that a violation continues shall be a separate offense except that whenever a corporation shall violate any provision of this act, such violation shall be deemed to be also that of the. Whenever a corporation violates any provision of this act, such violation shall be attributed to individual directors, officers; and agents of such corporation who shall have authorized, ordered; or done performed any of the acts constituting such violation in whole or in part.

(b)(d) A corporation and its directors, officers; and agents may each be prosecuted separately for violations of this act and the acquittal or conviction of one such director, officer or agent shall not abate the prosecution of the others.

(e)(c) Violations of this act also may be enjoined or the violators ousted from continuing such violations by proceedings brought by the county attorney of the proper county or by the attorney general, regardless of whether or not criminal proceedings have been instituted. Whenever it appears that a person has violated, or is likely to violate, this act, rules and regulations adopted thereunder, or an order issued pursuant to this act, then the commissioner may bring an action for injunctive relief to enjoin the violation or enforce compliance, regardless of whether or not criminal proceedings have been instituted. Any person who engages in activities that are regulated and require a license under this act shall be considered to have consented to the jurisdiction of the courts of this state for all actions arising under this act.

Sec. 9. K.S.A. 2011 Supp. 9-513 is hereby amended to read as follows: 9-513. (a) If any sentence, clause, provision or section of this act or the applicability thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the validity of the remainder of this act or its applicability to other persons or circumstances. It shall be presumed conclusively that the legislature would have enacted the remainder of this act without the sentence, clause, provision or section held invalidly enacted or applied.

(b) This act shall be interpreted by the commissioner for the purpose of protecting the citizens of this state, against financial loss, who purchase payment instruments or who give money or control of their funds or credit into the custody of another person for transmission, regardless of whether the transmitter has any office, facility, agent or other physical presence in the state.

Sec. 10. K.S.A. 2011 Supp. 9-513a is hereby amended to read as follows: 9-513a. (a) The commissioner shall not issue a license unless the commissioner is of the opinion that the person will be able to and will perform its obligations to purchasers of money transmission services and purchasers, payees and holders of money orders sold by it and its agents, and that the financial responsibility, character, reputation, experience and general fitness of the person, its senior officers, directors and principal stockholders are such to warrant belief that the business will be operated efficiently, fairly and in the public interest.

(b) The commissioner may, after notice and an opportunity for a hearing, revoke a license if the commissioner finds:

(1) The person may be financially unable to perform its obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of its obligations related to the person's money transmission business;

(2) the person no longer meets a requirement for initial granting of a license;

(3) the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit;

(4) there has been entry of a federal or state administrative order against the person for violation of any law or any regulation applicable to the conduct of the person's money transmission business;

(5) a refusal by the person to permit an investigation by the commissioner;

(6) a failure to pay to the commissioner any fee required by this act; or

(7) a failure to comply with any order of the commissioner. The commissioner, after notice and an opportunity for a hearing, may deny, suspend, revoke or refuse to renew a license issued pursuant to this act, or issue a cease and desist order if the commissioner finds any of the following are applicable to any person who is required to be licensed under this act or such person's agent:

(a) The financial responsibility, character, reputation, experience and general fitness of the person, such person's senior officers, directors and principal stockholders are such to warrant the belief that the business may not be operated efficiently, fairly and in the public interest;

(b) the person may be financially unable to perform such person's obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of such person's obligations related to the person's

money transmission business;

(c) the person no longer meets a requirement for initial granting of a license;

(d) the person has filed with the commissioner any document or statement falsely representing or omitting a material fact;

(e) the person concealed a fact or a condition exists which would clearly have justified the commissioner's refusal to grant a license had the fact or condition been known to exist at the time the application for the license was made;

(f) the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit;

(g) there has been entry of a federal or state administrative order against the person for violation of any rule and regulation applicable to the conduct of the person's money transmission business;

(h) the person refused to permit an examination or investigation by the commissioner;

(i) a failure to pay to the commissioner any fee required by this act;

(j) the person has engaged in any transaction, practice or business conduct that is fraudulent or deceptive in connection with the business of money transmission;

(k) the person advertises, displays, distributes, broadcasts or televises any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for the transmission of money;

(l) the person fails to keep and maintain sufficient records to permit an audit to satisfactorily disclose to the commissioner the licensee's compliance with the provisions of the act;

(m) the person has been the subject of any disciplinary action by this or any other state or federal agency;

(n) a final judgment has been entered against the person in a civil action and the commissioner finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be licensed; or

(o) the person has violated any order issued by the commissioner, any provision of this act, any rule and regulation adopted thereto, or any other state or federal law applicable to money transmission.

Sec. 11. K.S.A. 2011 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (b) or (c).

(b) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(c) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(d) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(e) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

~~(f)~~ The provisions of subsection (a) shall expire on July 1, 2016, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2016.

Sec. 12. K.S.A. 9-1722 is hereby amended to read as follows: 9-1722. (a) A notice of a proposed bank acquisition filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:

(1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including such person's material business activities and affiliations during the past five years and a description of any material pending legal or administrative proceedings in which the person is a party and any criminal indictment or conviction of such person by a state or federal court;

(2) a statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the filing of the notice. Individuals who own 10% or more shares in a bank holding company, as defined in K.S.A. 9-519, and amendments thereto, shall file the financial information required by this paragraph;

(3) the terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

(4) the identity, source and amount of the funds or other considerations used or to be used in making the acquisition and, if any part of these funds or other considerations has been or is to be borrowed or otherwise obtained for the

purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements or understandings with such persons;

(5) any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management;

(6) the identification of any person employed, retained or to be compensated by the acquiring party or by any person on such person's behalf to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition and a brief description of the terms of such employment, retainer or arrangement for compensation;

(7) copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

(8) any additional relevant information in such forms as the department may require by specific request in connection with any particular notice.

(b) With regard to any trust company which files a notice pursuant to this section, the commissioner may require fingerprinting of any proposed officer, director, shareholder or any other person deemed necessary by the commissioner. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons proposing to acquire the trust company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(c) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of a statement filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

~~(e)~~(d) At the time of filing a notice of a proposed bank acquisition pursuant to K.S.A. 9-1721, and amendments thereto, or an application filed pursuant to subsection ~~(b)~~(c), the applicant shall pay to the commissioner a fee in an amount established by rules and regulations adopted by the commissioner.

Sec. 13. K.S.A. 9-1801 is hereby amended to read as follows: 9-1801. (a) No bank or trust company shall be organized or incorporated under the laws of this state, nor shall any such institution transact either a banking business or a trust business in this state, until the application for its incorporation and application for authority to do business has been submitted to and approved by the board. The board shall approve or disapprove the organization and establishment of any such institution in the city or town in which the same is sought to be located. The form for making any such application shall be prescribed by the board and any application made to the board shall contain such information as it shall require. The board may require fingerprinting of any officer, director, incorporator or any other person of the proposed trust company related to the application deemed necessary by the board. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons associated with the applicant trust company to be issued a charter. Whenever the board requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application. The board shall not approve any such application until it first investigates and examines such application and the applicants.

(b) If upon the dissolution, insolvency or appointment of a receiver of any bank, trust company, national bank association, savings and loan association, savings bank or credit union, it is the opinion of the commissioner that by reason of the loss of services in the community, an emergency exists which may result in serious inconvenience or losses to the depositors or the public interest in the community, the commissioner may accept and approve an application for incorporation and application for authority to do business from applicants for the organization and establishment of a successor bank or trust company.

Sec. 14. K.S.A. 2011 Supp. 75-3135 is hereby amended to read as follows: 75-3135. (a) The bank commissioner shall receive an annual salary to be fixed by the governor with the approval of the state finance council. The bank commissioner is hereby authorized to appoint two deputy commissioners who shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary ~~fixed by the bank commissioner~~ in accordance with an equitable salary schedule established by the bank commissioner and approved by the governor for all unclassified positions. The average of the salaries shall not exceed the average compensation of corresponding state regulatory positions in similar areas. The bank commissioner's salary schedule shall be reported to the state banking board

annually.

(b) (1) The deputy commissioner of the banking division shall supervise all banks and trust companies as directed by the bank commissioner and shall perform such other duties as may be required by the bank commissioner.

(2) The deputy commissioner of the consumer and mortgage lending division shall supervise all consumer and mortgage lending functions as directed by the bank commissioner and shall perform such other duties as may be required by the bank commissioner.

(c) If the office of the bank commissioner is vacant or if the bank commissioner is absent or unable to act, the deputy commissioner of the banking division shall be the acting bank commissioner.

(d) (1) The deputy commissioner of the banking division shall have at least five years' experience as a state bank officer or five years' experience as a state or federal regulator.

(2) The deputy commissioner of consumer and mortgage lending shall have at least five years' experience in consumer or mortgage lending, regulatory, legal or related experience.

(e) The bank commissioner is also authorized to appoint or contract for, in accordance with the civil service law, such special assistants and other employees as are necessary to properly discharge the duties of the office.

Sec. 15. K.S.A. 2011 Supp. 75-3135a is hereby amended to read as follows: 75-3135a. (a) (1) Subject to the provisions of appropriation acts, the bank commissioner may appoint regional managers ~~and~~ financial examiner administrators, case managers, examiners and a business manager within the office of the state bank commissioner as determined necessary by the bank commissioner to effectively carry out the mission of the office. ~~All regional managers and financial examiner administrators~~ Each regional manager, financial examiner administrator, case manager, examiner or business manager appointed after the effective date of this act shall be in the unclassified service under the Kansas civil service act, shall have special training and qualifications for such positions, shall serve at the pleasure of the bank commissioner ~~and shall receive compensation fixed by the bank commissioner and approved by the governor~~ and shall receive compensation in accordance with an equitable salary schedule established by the bank commissioner and approved by the governor for all unclassified positions.

(2) The average of the amount of compensation in the bank commissioner's salary schedule for such appointed positions in the unclassified service shall not exceed the average compensation of corresponding state regulatory positions in similar areas. The bank commissioner's salary schedule for unclassified positions shall be reported to the state banking board annually.

(b) Nothing in subsection (a) shall affect the classified status of any person employed in the office of the state bank commissioner on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the bank commissioner pursuant to K.S.A. 75-2948, and amendments thereto.

Sec. 16. K.S.A. 50-1116 is hereby amended to read as follows: 50-1116. (a) K.S.A. 50-1116 through 50-1135, and amendments thereto, shall be known and may be cited as the Kansas credit services organization act.

(b) Any ~~person-individual~~ licensed to practice law in this state acting within the course and scope of such ~~person's individual's~~ practice as an attorney, and such individual's law firm, shall be exempt from the provisions of this act.

Sec. 17. K.S.A. 50-1117 is hereby amended to read as follows: 50-1117. Definitions as used in this act: (a) "Commissioner" means the state bank commissioner.

(b) "Consumer" means an individual who is a resident of this state.

(c) "Credit services organization" means a person who engages in, or holds out to the public as willing to engage in, the business of debt management services for a fee, compensation or gain, or in the expectation of a fee, compensation or gain.

(d) "Debt management service" means:

(1) Receiving or offering to receive funds from a consumer for the purpose of distributing the funds among such consumer's creditors in full or partial payment of such consumer's debts;

(2) improving or offering to improve a consumer's credit record, history or rating; or

(3) negotiating or offering to negotiate to defer or reduce a consumer's obligations with respect to credit extended by others.

(e) "Insolvent" means a person whose debts exceed their assets.

(f) "Law firm" means a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(g) "Person" means any individual, corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity.

~~(g)~~(h) "Related interest" means a person:

(1) With respect to an individual who is:

- (A) The spouse of the individual;
- (B) a brother, brother-in-law, sister, sister-in-law of the individual;
- (C) an ancestor or lineal descendant of the individual or the individual's spouse; and
- (D) any other relative, by blood, adoption or marriage, of the individual or such individual's spouse who shares the same residence with the individual.

(2) With respect to a corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity, which is:

- (A) Directly or indirectly controlling, controlled by or under common control by a person; or
- (B) an officer or director of a person or a person performing similar functions.

~~(h)~~(i) "Registrant" means a person who is registered by the commissioner as a credit services organization.

~~(h)~~(j) "Trust account" means an account established by the applicant or registrant in a federally insured financial institution used to hold funds paid by consumers to a credit services organization for disbursement to creditors of consumers that is designated as a trust account or other appropriate designation indicating the funds in the account are:

- (1) Not funds of the applicant or registrant or its owners, officers or employees; and
- (2) unavailable to creditors of the applicant or registrant.";

And by renumbering sections accordingly;

Also on page 6, in line 14, by striking all after "K.S.A."; by striking all in line 15; in line 16, by striking all before "are" and inserting "9-1722, 9-1801, 17-2204, 17-2234,17-2246, 17-2250, 17-2251, 17-2252, 17-2253, 17-2254, 17-2255, 17-2256, 17-2257, 17-2258, 17-2259, 17-2261, 17-2265, 17-2266, 17-2267, 50-1116 and 50-1117 and K.S.A. 2011 Supp. 9-508, 9-509, 9-510, 9-511, 9-512, 9-513, 9-513a, 9-513c, 75-3135 and 75-3135a";

Also on page 6, in line 18, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the second "and" and inserting "the powers and duties of certain state officials who regulate certain financial institutions; relating to the powers and duties of the state bank commissioner; relating to the powers and duties of the credit union administrator; amending K.S.A. 9-1722, 9-1801, 17-2204, 17-2234, 17-2246, 50-1116 and 50-1117 and K.S.A. 2011 Supp. 9-508, 9-509, 9-510, 9-511, 9-512, 9-513, 9-513a, 9-513c, 75-3135 and 75-3135a";

And your committee on conference recommends the adoption of this report.

Conferees on part of House

Conferees on part of Senate