

SENATE BILL No. 67

By Committee on Financial Institutions and Insurance

1-23

1 AN ACT concerning financial institutions; relating to banks and banking;
2 pertaining to general powers of state-chartered banks; amending K.S.A.
3 2016 Supp. 9-1101 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 9-1101 is hereby amended to read as
7 follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board
8 of directors or duly authorized officers or agents, subject to law, the
9 following powers:

10 (1) To receive and to pay interest on deposits. The commissioner,
11 with approval of the state banking board, may by rules and regulations fix
12 maximum rates of interest to be paid on deposit accounts other than
13 accounts for public moneys;

14 (2) to buy, sell, discount or negotiate domestic currency, gold, silver,
15 foreign currency, bullion, commercial paper, bills of exchange, notes and
16 bonds. Foreign currency shall not be bought, sold, discounted or
17 negotiated for investment purposes;

18 (3) to make all types of loans, subject to the loan limitations
19 contained in the state banking code;

20 (4) (A) to buy and sell:

21 (i) Bonds, securities or other evidences of indebtedness, including
22 temporary notes, of the United States of America;

23 (ii) bonds, securities or other evidences of indebtedness, including
24 temporary notes, fully guaranteed, directly or indirectly, by the United
25 States of America; or

26 (iii) general obligation bonds of any state of the United States of
27 America or any municipality or quasi-municipality thereof.

28 (B) No bank shall invest in bonds, securities or other evidences of
29 indebtedness if:

30 (i) The direct and overlapping indebtedness of such municipality or
31 quasi-municipality is in excess of 10% of its assessed valuation, excluding
32 therefrom all valuations on intangibles and homestead exemption
33 valuation; or

34 (ii) any bond, security, or evidence of indebtedness of any such
35 municipality or quasi-municipality that has been in default in the payment
36 of principal or interest within 10 years prior to the time that any bank

1 acquires any such bonds, security or evidence of indebtedness;

2 (5) to buy and sell investment securities which are evidences of
3 indebtedness limited to buying and selling without recourse marketable
4 obligations evidencing indebtedness of any state or federal agency,
5 including revenue bonds issued pursuant to K.S.A. 76-6a15, and
6 amendments thereto, or the state armory board in the form of bonds, notes
7 or debentures or both. The total amount of such investment securities of
8 any one obligor or maker held by such bank shall at no time exceed 25%
9 of the capital stock, surplus, undivided profits, 100% of the allowance for
10 loan and lease loss, capital notes and debentures and reserve for
11 contingencies of such bank, except that this limit shall not apply to
12 obligations of the United States government or any agency thereof;

13 (6) to buy and sell investment securities which are evidences of
14 indebtedness limited to buying and selling without recourse marketable
15 obligations evidencing indebtedness of any person, copartnership,
16 association or corporation. The total amount of such investment securities
17 of any one obligor or maker held by such bank shall at no time exceed
18 25% of the capital stock surplus, undivided profits, 100% of the allowance
19 for loan and lease loss, capital notes and debentures and reserve for
20 contingencies of such bank;

21 (7) to subscribe to, buy, hold and sell stock of:

22 (A) The federal national mortgage association in accordance with the
23 national housing act;

24 (B) the federal home loan mortgage corporation in accordance with
25 the federal home loan mortgage corporation act;

26 (C) the federal agricultural mortgage corporation, provided no bank's
27 investment in such corporation shall exceed 5% of the bank's capital stock,
28 surplus and undivided profits; and

29 (D) a federal home loan bank. Any bank may also become a member
30 of a federal home loan bank;

31 (8) to subscribe to, buy and own stock in one or more small business
32 investment companies in Kansas as otherwise authorized by federal law,
33 except that in no event shall any bank acquire shares in any small business
34 investment company if, upon the acquisition, the aggregate amount of
35 shares in small business investment companies then held by the bank
36 would exceed 5% of the bank's capital and surplus;

37 (9) to subscribe to, buy and own stock in any agricultural credit
38 corporation or livestock loan company, or its affiliate, organized pursuant
39 to the provisions of the laws of the United States providing for the
40 information and operation of agricultural credit corporations and livestock
41 loan companies, in an amount not exceeding either the undivided profits or
42 10% of the capital stock and surplus and undivided profits from such bank,
43 whichever is greater;

- 1 (10) to buy, hold and sell any type of investment securities not
2 enumerated in this section with approval of the commissioner and upon
3 such conditions and under such regulations as are prescribed by the state
4 banking board;
- 5 (11) to act as escrow agent;
- 6 (12) to subscribe to, acquire, hold and dispose of stock of a
7 corporation the purpose of which is to acquire, hold and dispose of loans
8 secured by real estate mortgages, and to acquire, hold and dispose of the
9 debentures and capital notes of such corporation. No bank's investment in
10 such stock, debentures and capital notes shall exceed 2% of its capital
11 stock, surplus and undivided profits;
- 12 (13) to purchase and sell securities and stock without recourse solely
13 upon the order, and for the account, of customers;
- 14 (14) to subscribe to, acquire, hold and dispose of any class of stock,
15 debentures and capital notes of MABSCO agricultural services, inc. or any
16 similar corporation the purpose of which is to acquire, hold and dispose of
17 agricultural loans originated by Kansas banks. No bank's investment in
18 such stock, debentures and capital notes shall exceed 2% of its capital
19 stock, surplus and undivided profits;
- 20 (15) to engage in financial future contracts on United States
21 government and agency securities subject to such rules and regulations as
22 the commissioner may prescribe pursuant to K.S.A. 9-1713, and
23 amendments thereto, to promote safe and sound banking practices;
- 24 (16) to subscribe to, buy and own stock in a bankers' bank organized
25 under the laws of the United States, this state or any other state, or a one
26 bank holding company which owns or controls such a bankers' bank,
27 except no bank's investment in such stock shall exceed 10% of its capital
28 stock, surplus and undivided profits;
- 29 (17) to buy, hold and sell shares of an open-end investment company
30 in a manner consistent with the parameters outlined by the office of the
31 comptroller of the currency in banking circular 220, as such circular was
32 issued on November 21, 1986;
- 33 (18) subject to the prior approval of the commissioner and subject to
34 such rules and regulations as are adopted by the commissioner pursuant to
35 K.S.A. 9-1713, and amendments thereto, to promote safe and sound
36 banking practices, a bank may establish a subsidiary which engages in the
37 following securities activities:
- 38 (A) Selling or distributing stocks, bonds, debentures, notes, mutual
39 funds and other securities;
- 40 (B) issuing and underwriting municipal bonds;
- 41 (C) organizing, sponsoring and operating mutual funds; or
- 42 (D) acting as a securities broker-dealer;
- 43 (19) to subscribe to, buy and own stock in an insurance company

1 incorporated prior to 1910, under the laws of Kansas, with corporate
2 headquarters in this state, which only provides insurance to financial
3 institutions. The investment in such stock shall not exceed 2% of the
4 bank's capital stock, surplus and undivided profits;

5 (20) to purchase and hold an interest in life insurance policies and, to
6 the extent applicable, to purchase and hold an annuity in a manner
7 consistent with the parameters outlined in the interagency statement of the
8 purchase and risk management of life insurance, issued by the office of the
9 comptroller of the currency, the board of governors of the federal reserve
10 system, the federal deposit insurance corporation and the office of the
11 thrift supervision on December 7, 2004; and set out in the respective
12 agencies' issuances, including the federal deposit insurance corporation
13 financial institution letter 127-2004, effective December 7, 2004, subject
14 to the following limitations:

15 (A) The cash surrender value of any life insurance policy or policies
16 underwritten by any one life insurance company shall not at any time
17 exceed 15% of the total of the bank's capital stock, surplus, undivided
18 profits, 100% of the allowance for loan and lease losses, capital notes and
19 debentures and reserve for contingencies, unless the bank has obtained the
20 prior approval of the commissioner;

21 (B) the cash surrender value of life insurance policies, in the
22 aggregate from all companies, cannot at any time exceed 25% of the total
23 of the bank's capital stock, surplus, undivided profits, 100% of the
24 allowance for loan and lease losses, capital notes and debentures and
25 reserve for contingencies, unless the bank has obtained the prior approval
26 of the state bank commissioner;

27 (C) the limitations set forth in subparagraphs (A) and (B) shall not
28 apply to any life insurance policy in place prior to July 1, 1993; and

29 (D) for the purposes of subsections (a)(20)(A) and (a)(20)(B),
30 intangibles, such as goodwill, shall not be included in the calculation of
31 capital;

32 (21) act as an agent and receive deposits, renew time deposits, close
33 loans, service loans and receive payments on loans and other obligations
34 for any company which is a subsidiary, as defined in K.S.A. 9-519, and
35 amendments thereto, of the bank holding company which owns the bank.
36 Nothing in this subsection shall authorize a bank to conduct activities as an
37 agent which the bank or the subsidiary would be prohibited from
38 conducting as a principal under any applicable federal or state law. Any
39 bank which enters or terminates any agreement pursuant to this subsection
40 shall within 30 days of the effective date of the agreement or termination
41 provide written notification to the commissioner which details all parties
42 involved and services to be performed or terminated;

43 (22) to make loans to the bank's stockholders or the bank's controlling

1 holding company stockholders on the security of the shares of the bank or
2 the bank's controlling bank holding company, but loans on the security of
3 the shares of the bank may occur only if the bank would have extended
4 credit to such stockholder on exactly the same terms without the bank
5 shares pledged as collateral;

6 (23) to make investments in and loans to community and economic
7 development entities as defined in K.S.A. 9-701, and amendments thereto,
8 subject to the limitations prescribed by community reinvestment act pub. l.
9 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

10 (24) to participate in a school savings deposit program authorized
11 under K.S.A. 9-1138, and amendments thereto;

12 (25) with prior approval of the commissioner, to control or hold an
13 interest in a financial subsidiary.

14 (A) The financial subsidiary may engage in one or more of the
15 following activities:

16 (i) Lending, exchanging, transferring, investing for others or
17 safeguarding money or securities;

18 (ii) acting as agent or broker for purposes of insuring, guaranteeing or
19 indemnifying against loss, harm, damage, illness, disability, death or
20 providing annuities as agent or broker subject to the requirements of
21 chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

22 (iii) issuing or selling instruments representing interests in pools or
23 assets permissible for a bank to hold directly;

24 (iv) operating a travel agency; and

25 (v) activities that are financial in nature as determined by the
26 commissioner.

27 (B) Such activities do not include:

28 (i) Insuring, guaranteeing or indemnifying against loss, harm,
29 damage, illness, disability, death or providing or issuing annuities the
30 income of which is subject to tax treatment under 26 U.S.C. § 72;

31 (ii) real estate development or real estate investment, except as
32 otherwise expressly authorized by Kansas law; or

33 (iii) any activity permitted for financial holding companies under 12
34 U.S.C. § 1843(k)(4)(H) and (I).

35 (C) As used in subsection (a)(25), "control" means:

36 (i) Directly or indirectly owning, controlling or having power to vote
37 25% or more of any class of the voting shares of a financial subsidiary;

38 (ii) controlling in any manner the election of a majority of the
39 directors or trustees of the financial subsidiary; or

40 (iii) otherwise directly or indirectly exercising a controlling influence
41 over the management or policies of the financial subsidiary, as determined
42 by the commissioner;

43 (26) to maintain and operate a postal substation on banking premises,

1 in accordance with the rules and regulations of the United States postal
2 service. The bank may advertise the services of the substation for the
3 purpose of attracting customers to the bank and receive income therefrom.
4 The bank shall keep the books and records of the substation separate from
5 the records of other banking operations;

6 (27) with prior approval of the commissioner, to invest in foreign
7 bonds an amount not to exceed 1% of the bank's capital or surplus as long
8 as such bonds comply with the form and definition of investment
9 securities;

10 (28) to act as an agent for any credit life, health and accident
11 insurance, sometimes referred to as credit life and disability insurance, and
12 mortgage life and disability insurance in connection with extensions of
13 credit and only as a source of protection for such extension of credit;

14 (29) to act as agent for any fire, life or other insurance company
15 authorized to do business in this state at any approved office of the bank
16 which is located in any place the population does not exceed 5,000
17 inhabitants. Such insurance may be sold to existing and potential
18 customers of the bank regardless of the geographic location of the
19 customers;

20 (30) to become a stockholder and member of the federal reserve bank
21 of the federal reserve district where such bank is located;

22 (31) with prior approval of the commissioner, to acquire the stock of,
23 or establish and operate a subsidiary to acquire the stock of, another
24 insured depository institution or the holding company of the insured
25 depository institution provided such acquisition is incidental to a
26 reorganization otherwise authorized by the law of this state and which
27 occurs nearly simultaneously with such acquisition;

28 (32) with prior approval of the commissioner, to establish and operate
29 a subsidiary for the purpose of owning, holding and managing all or part
30 of the bank's securities portfolio provided the parent bank owns 100% of
31 the stock of the subsidiary and the subsidiary shall not own, hold or
32 manage securities for any party other than the parent bank. The subsidiary
33 shall be subject to:

34 (A) All banking laws and rules and regulations applicable to the
35 parent bank unless otherwise provided;

36 (B) consolidation with the parent bank of pertinent book figures for
37 the purpose of applying all applicable statutory limitations including, but
38 not limited to, capital requirements, owning and holding real estate and
39 legal lending limitations;

40 (C) examination and supervision by the commissioner, the cost and
41 responsibility of which will be attributable to the parent bank; and

42 (D) any additional terms or conditions required by the commissioner
43 to address any legal or safety and soundness concerns;

1 (33) with prior approval of the commissioner, to establish or acquire
2 operating subsidiaries for the purpose of engaging in any activity which is
3 part or incidental to the business of banking as long as the parent bank
4 owns at least 50% of the stock of the subsidiary. The subsidiary shall be
5 subject to:

6 (A) All banking laws and regulations applicable to the parent bank
7 unless otherwise provided;

8 (B) consolidation with the parent bank of pertinent book figures for
9 the purpose of applying all applicable statutory limitations including, but
10 not limited to, capital requirements, owning and holding real estate and
11 legal lending limitations;

12 (C) examination and supervision by the commissioner the cost and
13 responsibility of which will be attributable to the parent bank; and

14 (D) any additional terms or conditions required by the commissioner
15 to address any legal or safety and soundness concerns;

16 (34) to invest in, without limitation, obligations of or obligations
17 which are insured as to principal and interest by or evidences of
18 indebtedness that are fully collateralized by obligations of the federal
19 home loan banks, the federal national mortgage association, the
20 government national mortgage association, the federal home loan
21 mortgage corporation, the student loan marketing association and the
22 federal farm credit banks; ~~and~~

23 (35) any bank or trust company may invest in bonds or notes secured
24 by mortgages which in turn are insured or upon which there is a
25 commitment to insure by the federal housing administration, or any
26 successor thereto, in debentures issued by the federal housing
27 administration or any successor, and in obligations of national mortgage
28 associations; *and*

29 (36) *to buy tax credits for certain historic structure rehabilitation*
30 *expenditures pursuant to K.S.A. 79-32,211, and amendments thereto. The*
31 *total amount of such tax credits held by a bank shall at no time exceed*
32 *25% of the capital stock, surplus, undivided profits, 100% of the*
33 *allowance for loan and lease loss, capital notes and debentures and*
34 *reserve for contingencies of such bank.*

35 (b) Any bank hereby is authorized to exercise by the bank's board of
36 directors or duly authorized officers or agents, subject to approval by the
37 commissioner, any incidental power necessary to carry on the business of
38 banking.

39 Sec. 2. K.S.A. 2016 Supp. 9-1101 is hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the statute book.