

House Substitute for SENATE BILL No. 315

By Committee on Financial Institutions

3-16

1 AN ACT concerning the state bank commissioner, powers; amending
2 K.S.A. 9-1722 and 9-1801 and K.S.A. 2011 Supp. 9-508, 9-509, 9-510,
3 9-511, 9-512, 9-513, 9-513a, 9-513c, 75-2935b, 75-3135 and 75-3135a
4 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2011 Supp. 9-508 is hereby amended to read as
8 follows: 9-508. As used in this act:

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

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

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

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

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

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

32 ~~(f)~~ (g) "payment instrument" means any electronic or written check,
33 draft, money order, travelers check or other electronic or written
34 instrument or order for the transmission or payment of money, sold or
35 issued to one or more persons, whether or not such instrument is
36 negotiable. The term "payment instrument" does not include any credit

1 card voucher, any letter of credit or any instrument which is redeemable by
2 the issuer in goods or services;

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

4 (1) Cash;

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

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

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

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

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

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

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

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

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

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

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

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

1 *amendments thereto*; or

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

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

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

9 Sec. 2. K.S.A. 2011 Supp. 9-509 is hereby amended to read as
10 follows: 9-509. (a) No person shall engage in the business of selling,
11 issuing or delivering its payment instrument, check, draft, money order,
12 personal money order, bill of exchange, evidence of indebtedness or other
13 instrument for the transmission or payment of money or otherwise engage
14 in the business of money transmission with a resident of this state, or,
15 except as provided in K.S.A. 9-510, and amendments thereto, act as agent
16 for another in the transmission of money as a service or for a fee or other
17 consideration, unless such person obtains a license from the commissioner.

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

34 (2) *The commissioner may require fingerprinting of any individual,*
35 *officer, director, partner, member, shareholder or any other person related*
36 *to the application deemed necessary by the commissioner. Such*
37 *fingerprints may be submitted to the Kansas bureau of investigation and*
38 *the federal bureau of investigation for a state and national criminal*
39 *history record check. The fingerprints shall be used to identify the person*
40 *and to determine whether the person has a record of arrests and*
41 *convictions in this state or other jurisdiction. The commissioner may use*
42 *information obtained from fingerprinting and the criminal history for*
43 *purposes of verifying the identification of the person and in the official*

1 *determination of the qualifications and fitness of the person to be issued or*
2 *to maintain a license, or in the case of an applicant company, the persons*
3 *associated with the company. Whenever the commissioner requires*
4 *fingerprinting, any associated costs shall be paid by the applicant or the*
5 *parties to the application. If the applicant is a publicly traded corporation*
6 *or a subsidiary of a publicly traded corporation, no fingerprint check shall*
7 *be required.*

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

10 ~~(1) (A)~~ The net worth of such person shall be at all times not less than
11 \$250,000, as shown by an audited financial statement and certified to by
12 an owner, a partner or officer of the corporation or other entity ~~in a form~~
13 ~~prescribed by the commissioner and filed in the commissioner's office~~
14 ~~filed in the form and manner prescribed by the commissioner.~~ The
15 commissioner may require any person to file a statement at any other time
16 upon request;

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

25 ~~(3) (C)~~ in lieu of the deposit of cash or securities required by
26 paragraph ~~(2) (B)~~, such person may give a surety bond in an amount equal
27 to that required for the deposit of cash or securities, in a form satisfactory
28 to the commissioner and issued by a company authorized to do business in
29 this state, which bond shall be payable to the office of the state bank
30 commissioner and be filed with the commissioner. ~~The deposit of cash or~~
31 ~~securities or surety bond shall be for the protection and benefit of~~
32 ~~purchasers of money transmission services, purchasors or holders of~~
33 ~~payment instruments furnished by such person or for the protection of~~
34 ~~those for whom such person has agreed to act as agent in the transmission~~
35 ~~of monetary value and to secure the faithful performance of the obligations~~
36 ~~of such person in respect to the receipt, handling, transmission and~~
37 ~~payment of monetary value. The aggregate liability of the surety for all~~
38 ~~breaches of the conditions of the bond shall, in no event, exceed the~~
39 ~~amount of such bond. The surety on the bond shall have the right to cancel~~
40 ~~such bond upon giving 30 days' notice to the commissioner and thereafter~~
41 ~~shall be relieved of liability for any breach of condition occurring after the~~
42 ~~effective date of the cancellation. The commissioner or any aggrieved~~
43 ~~party may enforce claims against such deposit of cash or securities or~~

1 surety bond. So long as the depositing person is not in violation of this act,
2 such person shall be permitted to receive all interest and dividends on the
3 deposit and shall have the right to substitute other securities satisfactory to
4 the commissioner. If the deposit is made with a bank, any custodial fees
5 shall be paid by such person; and

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

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

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

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

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

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

40 (2) *For purposes of investigation, examination or other proceeding
41 under this act, the commissioner may administer or cause to be
42 administered oaths, subpoena witnesses and documents, compel the
43 attendance of witnesses, take evidence and require the production of any*

1 *document that the commissioner determines to be relevant to the inquiry.*

2 Sec. 3. K.S.A. 2011 Supp. 9-510 is hereby amended to read as
3 follows: 9-510. ~~Any person complying with the provisions of this act may~~
4 ~~engage in such business~~ *A licensee may engage in the business of money*
5 *transmission* at one or more locations in this state and through or by means
6 of such agents as such person may designate and appoint from time to
7 time. A verified list of agents shall be furnished annually to the
8 commissioner by persons operating hereunder, on a date prescribed by the
9 commissioner. No such agent shall be required to comply with the
10 licensing provisions of this act.

11 Sec. 4. K.S.A. 2011 Supp. 9-511 is hereby amended to read as
12 follows: 9-511. ~~This act shall not apply to banks, building and loan~~
13 ~~associations, savings and loan associations, savings banks or credit unions~~
14 ~~organized under the laws of and subject to the supervision of this state,~~
15 ~~another state or the United States, or to the government of the United~~
16 ~~States and its agencies, or to the state of Kansas and its agencies. This act~~
17 ~~also shall not apply to the distribution, transmission or payment of money~~
18 ~~as a part of the lawful practice of law, bookkeeping, accounting or real~~
19 ~~estate sales or brokerage or as an incidental and necessary part of any~~
20 ~~lawful business activity~~ *This act shall not apply to:*

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

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

27 (3) *the state of Kansas and its agencies, including agents of the state*
28 *of Kansas and its agencies.*

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

33 Sec. 5. K.S.A. 2011 Supp. 9-512 is hereby amended to read as
34 follows: 9-512. (a) *The commissioner, after notice and an opportunity*
35 *for hearing, may issue an order to address any violation of this act:*

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

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

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

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

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

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

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

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

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

33 Sec. 6. K.S.A. 2011 Supp. 9-513 is hereby amended to read as
34 follows: 9-513. ~~(a) If any sentence, clause, provision or section of this~~
35 ~~act or the applicability thereof to any person or circumstance shall be held~~
36 ~~invalid, such invalidity shall not affect the validity of the remainder of this~~
37 ~~act or its applicability to other persons or circumstances. It shall be~~
38 ~~presumed conclusively that the legislature would have enacted the~~
39 ~~remainder of this act without the sentence, clause, provision or section~~
40 ~~held invalidly enacted or applied.~~

41 ~~(b)~~ This act shall be interpreted by the commissioner for the purpose
42 of protecting the citizens of this state, against financial loss, who purchase
43 payment instruments or who give money or control of their funds or credit

1 into the custody of another person for transmission, regardless of whether
2 the transmitter has any office, facility, agent or other physical presence in
3 the state.

4 Sec. 7. K.S.A. 2011 Supp. 9-513a is hereby amended to read as
5 follows: 9-513a. ~~(a) The commissioner shall not issue a license unless the~~
6 ~~commissioner is of the opinion that the person will be able to and will~~
7 ~~perform its obligations to purchasers of money transmission services and~~
8 ~~purchasers, payees and holders of money orders sold by it and its agents,~~
9 ~~and that the financial responsibility, character, reputation, experience and~~
10 ~~general fitness of the person, its senior officers, directors and principal~~
11 ~~stockholders are such to warrant belief that the business will be operated~~
12 ~~efficiently, fairly and in the public interest.~~

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

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

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

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

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

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

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

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

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

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

1 *related to the person's money transmission business;*

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

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

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

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

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

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

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

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

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

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

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

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

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

37 Sec. 8. K.S.A. 2011 Supp. 9-513c is hereby amended to read as
38 follows: 9-513c. (a) Notwithstanding any other provision of law, all
39 information or reports obtained *and prepared* by the commissioner in the
40 course of licensing or examining a person engaged in money transmission
41 business shall be confidential and may not be disclosed by the
42 commissioner except as provided in subsection (b) or (c).

43 (b) The commissioner shall have the authority to share supervisory

1 information, including *reports of* examinations, with other state or federal
2 agencies having regulatory authority over the person's money transmission
3 business and shall have the authority to conduct joint examinations with
4 other regulatory agencies.

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

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

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

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

19 Sec. 9. K.S.A. 9-1722 is hereby amended to read as follows: 9-1722.

20 (a) A notice of a proposed bank acquisition filed pursuant to K.S.A. 9-
21 1721, and amendments thereto, shall contain the following information:

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

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

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

42 (4) the identity, source and amount of the funds or other
43 considerations used or to be used in making the acquisition and, if any part

1 of these funds or other considerations has been or is to be borrowed or
2 otherwise obtained for the purpose of making the acquisition, a description
3 of the transaction, the names of the parties, and any arrangements,
4 agreements or understandings with such persons;

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

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

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

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

20 (b) *With regard to any trust company which files a notice pursuant to*
21 *this section, the commissioner may require fingerprinting of any proposed*
22 *officer, director, shareholder or any other person deemed necessary by the*
23 *commissioner. Such fingerprints may be submitted to the Kansas bureau of*
24 *investigation and the federal bureau of investigation for a state and*
25 *national criminal history record check. The fingerprints shall be used to*
26 *identify the person and to determine whether the person has a record of*
27 *arrests and convictions in this state or other jurisdiction. The*
28 *commissioner may use information obtained from fingerprinting and the*
29 *criminal history for purposes of verifying the identification of the person*
30 *and in the official determination of the qualifications and fitness of the*
31 *persons associated with the applicant trust company to be issued a*
32 *charter. Whenever the commissioner requires fingerprinting, any*
33 *associated costs shall be paid by the applicant or the parties to the*
34 *application.*

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

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

1 Sec. 10. K.S.A. 9-1801 is hereby amended to read as follows: 9-1801.

2 (a) No bank or trust company shall be organized or incorporated under the
3 laws of this state, nor shall any such institution transact either a banking
4 business or a trust business in this state, until the application for its
5 incorporation and application for authority to do business has been
6 submitted to and approved by the board. The board shall approve or
7 disapprove the organization and establishment of any such institution in
8 the city or town in which the same is sought to be located. The form for
9 making any such application shall be prescribed by the board and any
10 application made to the board shall contain such information as it shall
11 require. *The board may require fingerprinting of any officer, director,*
12 *incorporator or any other person of the proposed trust company related to*
13 *the application deemed necessary by the board. Such fingerprints may be*
14 *submitted to the Kansas bureau of investigation and the federal bureau of*
15 *investigation for a state and national criminal history record check. The*
16 *fingerprints shall be used to identify the person and to determine whether*
17 *the person has a record of arrests and convictions in this state or other*
18 *jurisdiction. The commissioner may use information obtained from*
19 *fingerprinting and the criminal history for purposes of verifying the*
20 *identification of the person and in the official determination of the*
21 *qualifications and fitness of the persons associated with the applicant trust*
22 *company to be issued a charter. Whenever the board requires*
23 *fingerprinting, any associated costs shall be paid by the applicant or the*
24 *parties to the application.* The board shall not approve any such
25 application until it first investigates and examines such application and the
26 applicants.

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

36 Sec. 11. K.S.A. 2011 Supp. 75-2935b is hereby amended to read as
37 follows: 75-2935b. Salaries and other compensation of all persons who are
38 within the unclassified service of the Kansas civil service act, and which
39 salaries and other compensation are not fixed by statute, shall be subject to
40 the approval of the governor and such salaries or other compensation shall
41 not be paid until approved by the governor. The provisions of this section
42 shall not apply to the salaries and other compensation of any officer or
43 employee when such salary or other compensation is specifically

1 prescribed by law, nor to officers and employees of elected state officials,
2 officers and employees under the jurisdiction of the state board of regents,
3 the executive secretary and other employees of the Kansas public
4 employees retirement system that are in the unclassified service as
5 specified under K.S.A. 74-4908, and amendments thereto, ~~officers and~~
6 ~~employees of Kansas, Inc. attorneys, officers and employees of the office~~
7 *of the state bank commissioner as specified under K.S.A. 75-2935, 75-*
8 *3135 and 75-3135a, and amendments thereto, officers and employees*
9 *under the jurisdiction of the supreme court, legislative officers and*
10 *employees or officers and employees of any agency performing functions*
11 *and duties primarily for the legislative branch.*

12 Sec. 12. K.S.A. 2011 Supp. 75-3135 is hereby amended to read as
13 follows: 75-3135. (a) The bank commissioner shall receive an annual
14 salary to be fixed by the governor with the approval of the state finance
15 council. The bank commissioner is hereby authorized to appoint two
16 deputy commissioners who shall be in the unclassified service under the
17 Kansas civil service act and shall receive an annual salary ~~fixed by the~~
18 ~~bank commissioner~~ *in accordance with an equitable salary schedule*
19 *established by the bank commissioner for all unclassified positions. The*
20 *average of the salaries shall not exceed the average compensation of*
21 *corresponding state regulatory positions in similar geographic areas. The*
22 *bank commissioner's salary schedule shall be reported to the state*
23 *banking board annually.*

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

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

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

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

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

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

1 office.

2 Sec. 13. K.S.A. 2011 Supp. 75-3135a is hereby amended to read as
3 follows: 75-3135a. (a) Subject to the provisions of appropriation acts, the
4 bank commissioner may appoint regional managers ~~and~~ , financial
5 examiner administrators ,*case managers, examiners and a business*
6 *manager* within the office of the state bank commissioner as determined
7 necessary by the bank commissioner to effectively carry out the mission of
8 the office. ~~All regional managers and financial examiner administrators~~
9 *Each regional manager, financial examiner administrator, case manager,*
10 *examiner or business manager* appointed after the effective date of this act
11 shall be in the unclassified service under the Kansas civil service act, shall
12 have special training and qualifications for such positions; *and* shall serve
13 at the pleasure of the bank commissioner ~~and shall receive compensation~~
14 ~~fixed by the bank commissioner and approved by the governor~~ . *The bank*
15 *commissioner shall prepare and maintain an equitable salary schedule for*
16 *such appointed positions. The average of the amount of compensation in*
17 *the bank commissioner's salary schedule for such appointed positions in*
18 *the unclassified service shall not exceed the average compensation of*
19 *corresponding state regulatory positions in similar geographic areas. The*
20 *bank commissioner's salary schedule for unclassified positions shall be*
21 *reported to the state banking board annually.*

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

27 Sec. 14. K.S.A. 9-1722 and 9-1801 and K.S.A. 2011 Supp. 9-508, 9-
28 509, 9-510, 9-511, 9-512, 9-513, 9-513a, 9-513c, 75-2935b, 75-3135 and
29 75-3135a are hereby repealed.

30 Sec. 15. This act shall take effect and be in force from and after its
31 publication in the Kansas register.