

SENATE BILL No. 283

AN ACT concerning the regulation of financial institutions; relating to trust companies; office of the state bank commissioner; powers, duties and experience of certain employees; amending K.S.A. 2017 Supp. 9-1609, 9-1720, 9-1721 and 75-3135 and repealing the existing sections.

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

Section 1. On and after July 1, 2018, K.S.A. 2017 Supp. 9-1609 is hereby amended to read as follows: 9-1609. (a) Any bank or trust company authorized to act as fiduciary may establish ~~common trust~~ *collective investment* funds for the purpose of furnishing investments to:

- (1) Such bank or trust company as fiduciary;
- (2) such bank or trust company and others, as co-fiduciaries;
- (3) another state or national bank or trust company, as fiduciary, which is a subsidiary of the same bank holding company of which the bank or trust company is a subsidiary, as such terms are defined in K.S.A. 9-519, and amendments thereto; or
- (4) another state or national bank or trust company with which the bank or trust company is affiliated through common control, as defined in K.S.A. 9-1612, and amendments thereto.

(b) Any bank or trust company authorized to act as fiduciary may, as such fiduciary or co-fiduciary, invest funds which it lawfully holds for investment in interests in such ~~common trust funds~~ *collective investment funds*, if such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship, and if, in the case of co-fiduciaries, the bank or trust company procures the consent of its co-fiduciaries to such investment.

Sec. 2. K.S.A. 2017 Supp. 9-1720 is hereby amended to read as follows: 9-1720. (a) Except with the prior written approval of the commissioner, or as otherwise permitted by the state banking code, it shall be unlawful for:

(1) A person; acting directly ~~or~~, indirectly or ~~through~~ *in concert* with one or more persons, ~~either directly or indirectly, to acquire control of any~~ *engage in any activity that may result or results in acquiring control of any bank, bank holding company as defined in K.S.A. 9-519, and amendments thereto, or trust company without notifying the commissioner at least 30 days prior to acquiring control. The commissioner may determine if an activity may result or results in a change of control under this paragraph;*

(2) a bank to merge or consolidate with any bank or institution, or either directly or indirectly acquire the assets of, or assume the liability to pay any deposit made in any other bank or institution, referred to hereinafter as a merger transaction; or

(3) a trust company to merge or consolidate with any trust company, or either directly or indirectly acquire the assets of any other trust company, referred to hereinafter as a merger transaction.

(b) *The board of directors of any privately held bank, bank holding company or trust company shall notify the commissioner of any change of control of the bank, bank holding company or trust company at least 30 days prior to the date the change of control becomes effective.*

~~(c)~~ (c) A trust company may merge or consolidate with a trust company, with the prior written approval of the commissioner chartered by:

- (1) The comptroller of the currency; or
- (2) another state. An application filed pursuant to this subsection shall be subject to the provisions of K.S.A. 9-1721, 9-1722 and 9-1724, and amendments thereto.

Sec. 3. On and after July 1, 2018, K.S.A. 2017 Supp. 9-1721 is hereby amended to read as follows: 9-1721. (a) The person proposing to acquire control or a bank or trust company undertaking a merger transaction, hereinafter referred to as the applicant, shall file an application with the commissioner at least 60 days prior to the proposed change of control or merger transaction. If the commissioner does not act on the application within the 60-day time period, the application shall stand approved. The commissioner may, for any reason, extend the time period to act on an application for an additional 30 days. The time period to act on an application may be further extended if the commissioner determines that the applicant has not furnished all the information required under K.S.A. 9-1722, and amendments thereto, or that, in the commissioner's judgment, any material information submitted is substantially inaccurate. *The com-*

missioner may waive the 60-day prior notice requirement if the acquired bank or trust company is under a formal corrective action.

(b) Upon the filing of an application, the commissioner shall make an investigation of the applicant for the change of control or merger transaction. The commissioner may deny the application if the commissioner finds the:

(1) Proposed change of control or merger transaction would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the business of banking or trust services in any part of this state;

(2) financial condition of the applicant might jeopardize the financial stability of the bank or trust company or prejudice the interests of the depositors of a bank;

(3) competence, experience or integrity of the applicant or of any of the proposed management personnel of the bank or trust company or resulting bank or trust company indicates it would not be in the interest of the depositors of the bank, the clients of trust services, or in the interest of the public; or

(4) applicant neglects, fails or refuses to furnish the commissioner with all of the information required by the commissioner.

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

Sec. 4. K.S.A. 2017 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 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 an officer of a state bank holding company or a wholly-owned subsidiary conducting business that is related to banking*, or five years' experience as a state or federal regulator, *or a combination of the aforementioned experience.*

(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. 5. K.S.A. 2017 Supp. 9-1720 and 75-3135 are hereby repealed.

Sec. 6. On and after July 1, 2018, K.S.A. 2017 Supp. 9-1609 and 9-1721 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.