

SENATE BILL No. 64

By Committee on Financial Institutions and Insurance

1-27

1 AN ACT concerning banking; allowing the obtaining of fingerprints from  
2 certain individuals for certain purposes; amending K.S.A. 9-532, 9-  
3 1722 and 9-1801 and K.S.A. 2010 Supp. 9-509 and repealing the  
4 existing sections.

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

7 Section 1. K.S.A. 2010 Supp. 9-509 is hereby amended to read as  
8 follows: 9-509. (a) No person shall engage in the business of selling,  
9 issuing or delivering its payment instrument, check, draft, money order,  
10 personal money order, bill of exchange, evidence of indebtedness or other  
11 instrument for the transmission or payment of money or otherwise engage  
12 in the business of money transmission with a resident of this state, or,  
13 except as provided in K.S.A. 9-510, and amendments thereto, act as agent  
14 for another in the transmission of money as a service or for a fee or other  
15 consideration, unless such person obtains a license from the  
16 commissioner.

17 (b) An application for a license shall be submitted on forms  
18 prescribed by the commissioner. The application shall be accompanied by  
19 an application fee as established by rules and regulations adopted by the  
20 commissioner. ~~The commissioner may require fingerprinting of any~~  
21 ~~individual, officer, director, partner, member, shareholder or any other~~  
22 ~~person related to the application deemed necessary by the commissioner.~~  
23 ~~Such fingerprints may be submitted to the Kansas bureau of~~  
24 ~~investigation, federal bureau of investigation or other law enforcement~~  
25 ~~agency for the purposes of verifying the identity of such persons and~~  
26 ~~obtaining the records of their criminal arrests and convictions. Whenever~~  
27 ~~the commissioner requires fingerprinting, then any associated costs shall~~  
28 ~~be paid by the applicant or the parties to the application. In addition,~~  
29 ~~each person submitting an application shall meet the following~~  
30 ~~requirements:~~

31 (1) The net worth of such person shall be at all times not less than  
32 \$250,000, as shown by an audited financial statement and certified to by  
33 an owner, a partner or officer of the corporation or other entity in a form  
34 prescribed by the commissioner and filed in the commissioner's office.  
35 The commissioner may require any person to file a statement at any other  
36 time upon request;

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Proposed Amendments for SB 64  
Senate Committee on Financial Institutions and Insurance  
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Prepared by Ken Wilke  
Office of the Revisor of Statutes

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

9 (3) in lieu of the deposit of cash or securities required by paragraph  
 10 (2), such person may give a surety bond in an amount equal to that  
 11 required for the deposit of cash or securities, in a form satisfactory to the  
 12 commissioner and issued by a company authorized to do business in this  
 13 state, which bond shall be payable to the office of the state bank  
 14 commissioner and be filed with the commissioner. The deposit of cash or  
 15 securities or surety bond shall be for the protection and benefit of  
 16 purchasers of money transmission services, purchasers or holders of  
 17 payment instruments furnished by such person or for the protection of  
 18 those for whom such person has agreed to act as agent in the transmission  
 19 of monetary value and to secure the faithful performance of the  
 20 obligations of such person in respect to the receipt, handling,  
 21 transmission and payment of monetary value. The aggregate liability of  
 22 the surety for all breaches of the conditions of the bond shall, in no event,  
 23 exceed the amount of such bond. The surety on the bond shall have the  
 24 right to cancel such bond upon giving 30 days' notice to the  
 25 commissioner and thereafter shall be relieved of liability for any breach  
 26 of condition occurring after the effective date of the cancellation. The  
 27 commissioner or any aggrieved party may enforce claims against such  
 28 deposit of cash or securities or surety bond. So long as the depositing  
 29 person is not in violation of this act, such person shall be permitted to  
 30 receive all interest and dividends on the deposit and shall have the right to  
 31 substitute other securities satisfactory to the commissioner. If the deposit  
 32 is made with a bank, any custodial fees shall be paid by such person, and

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

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

40 Sec. 2. K.S.A. 9-532 is hereby amended to read as follows: 9-532.  
 41 With prior approval of the commissioner, any bank holding company may  
 42 acquire, directly or indirectly, ownership or control of, or power to vote,  
 43 any of the voting shares of, an interest in, or all or substantially all of the

See Insert for  
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1 assets of a Kansas bank or of a Kansas bank holding company.

2 Request for approval shall be made by filing an application in such  
3 form as required by the commissioner, containing the information  
4 prescribed by K.S.A. 9-533, and amendments thereto, and by rules and  
5 regulations adopted by the commissioner. ~~The commissioner may require~~  
6 ~~fingerprinting of any proposed officer, director, shareholder, incorporator,~~  
7 ~~or any other person related to the application deemed necessary by the~~  
8 ~~commissioner. Such fingerprints may be submitted to the Kansas bureau~~  
9 ~~of investigation, federal bureau of investigation or other law enforcement~~  
10 ~~agency for the purposes of verifying the identity of such persons and~~  
11 ~~obtaining the records of their criminal arrests and convictions. Whenever~~  
12 ~~the commissioner requires fingerprinting, then any associated costs shall~~  
13 ~~be paid by the applicant or the parties to the application. At the time of~~  
14 ~~filing the application, the applicant shall pay to the commissioner a fee in~~  
15 ~~an amount established by rules and regulations adopted by the~~  
16 ~~commissioner.~~

17 See 3. K.S.A. 9-1722 is hereby amended to read as follows: 9-1722.

18 (a) A notice of a proposed bank acquisition filed pursuant to K.S.A. 9-  
19 1721, and amendments thereto, shall contain the following information:

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

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

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

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

1 description of the transaction, the names of the parties, and any  
2 arrangements, agreements or understandings with such persons;

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

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

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

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

18 (b) ~~The commissioner may require fingerprinting of any proposed~~  
19 ~~officer, director, shareholder or any other person deemed necessary by~~  
20 ~~the commissioner. Such fingerprints may be submitted to the Kansas~~  
21 ~~bureau of investigation, federal bureau of investigation or other law~~  
22 ~~enforcement agency for the purposes of verifying the identity of such~~  
23 ~~persons and obtaining the records of their criminal arrests and~~  
24 ~~convictions. Whenever the commissioner requires fingerprinting, then~~  
25 ~~any associated costs shall be paid by the applicant or the parties to the~~  
26 ~~application.~~

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

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

36 Sec. 4-3 K.S.A. 9-1801 is hereby amended to read as follows: 9-1801.  
37 (a) No bank or trust company shall be organized or incorporated under  
38 the laws of this state, nor shall any such institution transact either a  
39 banking business or a trust business in this state, until the application for  
40 its incorporation and application for authority to do business has been  
41 submitted to and approved by the board. The board shall approve or  
42 disapprove the organization and establishment of any such institution in  
43 the city or town in which the same is sought to be located. The form for

With regard to any trust  
company which files a  
notice pursuant to this  
section,

1 making any such application shall be prescribed by the board and any  
 2 application made to the board shall contain such information as it shall  
 3 require. *The board may require fingerprinting of any officer, director,*  
 4 *incorporator or any other person of the proposed ~~bank or trust company~~*  
 5 *related to the application deemed necessary by the board. Such*  
 6 *fingerprints may be submitted to the Kansas bureau of investigation,*  
 7 *federal bureau of investigation or other law enforcement agency for the*  
 8 *purposes of verifying the identity of such persons and obtaining the*  
 9 *records of their criminal arrests and convictions. Whenever the board*  
 10 *requires fingerprinting, ~~then~~ any associated costs shall be paid by the*  
 11 *applicant or the parties to the application. The board shall not approve*  
 12 *any such application until it first investigates and examines such*  
 13 *application and the applicants.*

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

23 Sec. ~~5~~ K.S.A. 9-532, 9-1722 and 9-1801 and K.S.A. 2010 Supp. 9-  
 24 509 are hereby repealed.

25 Sec. ~~6~~ This act shall take effect and be in force from and after its  
 26 publication in the statute book.

, shareholder

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4.

5.

Insert for Senate Bill 64

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) 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 addition, each person submitting an application shall meet the following requirements:

(1) 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. The commissioner may require any person to file a statement at any other time upon request;

(2) 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

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, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such person and obtaining the records of their criminal arrests and convictions. Whenever the commissioner requires fingerprinting, then 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.

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;

(3) in lieu of the deposit of cash or securities required by paragraph (2), 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) 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.