

9-1135. Trust branch bank defined; application; conditions. (a) Notwithstanding the requirements contained in K.S.A. 9-1111, and amendments thereto, a bank incorporated under the laws of this state may establish or operate a trust branch bank anywhere in this state.

(b) As used in this section, the term "trust branch bank" means any office, agency or other place of business located within this state, other than the place of business specified in the bank's certificate of authority, the sole purpose of which is to exercise those trust powers granted to the bank by the commissioner pursuant to K.S.A. 9-1602, and amendments thereto. No trust branch bank established or operated pursuant to this section shall be authorized to receive deposits, pay checks or lend money without first applying for and obtaining approval as provided in K.S.A. 9-1111, and amendments thereto.

(c) No bank shall establish or operate a trust branch bank or relocate an existing trust branch bank until the bank has applied for and obtained approval from the commissioner as provided by this section.

(d) An application to establish a trust branch bank as provided in this section shall be in such form and contain such information as is required by the commissioner and shall include certified copies of the following documents:

(1) The written action taken by the board of directors of the bank approving the proposed trust branch bank or the relocation of an existing trust branch bank;

(2) all other required regulatory approvals; and

(3) an affidavit of publication of notice of intent to file an application to establish or operate a trust branch bank or relocate an existing trust branch bank. The publication of the notice shall be on the same day for two consecutive weeks in the official newspaper of the city or county where the proposed trust branch bank is to be located. The notice shall be in the form prescribed by the commissioner and shall contain the name of the applicant, the location of the proposed trust branch bank, the proposed date of filing of the application with the commissioner, a solicitation for written comments concerning the application and a notice of the public's right to file a written request for a public hearing for the purpose of presenting oral or written evidence regarding the proposed trust branch bank. All comments and requests for public hearing shall be filed with the commissioner on or before the 30th day after the date the application is filed.

(e) A bank making application to the commissioner for approval of a trust branch bank pursuant to this section shall pay to the commissioner a fee, in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the expenses of the commissioner or designee in the examination and investigation of the application. The commissioner shall remit all amounts received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a separate account in the state treasury for each application. The moneys in each such account shall be used to pay the expenses of the commissioner or designee in the examination and investigation of the application to which it relates and any unused balance shall be transferred to the bank commissioner fee fund.

(f) Upon the filing of any such application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation concerning:

(1) The reasonable probability of usefulness and success of the proposed trust branch bank;

(2) the applicant bank's financial history and condition including the character, qualifications and experience of the officers employed by the bank; and

(3) whether the proposed trust branch bank can be established without undue injury to properly conducted existing banks, national banking associations and trust companies.

If the commissioner determines any of such matters unfavorably to the applicants, the application shall be disapproved, but if not, the application shall be approved.

(g) If no written request for public hearing is filed, the commissioner shall render approval or disapproval of the application within 60 days after the date upon which the application was filed.

(h) If a written request for public hearing is filed, the commissioner shall hold a public hearing in a location determined by the commissioner within 30 days of the close of the comment period. Notice of the time, date and place of such hearing shall be published, by the applicant, in a newspaper of general circulation in the county where the proposed trust branch bank is to be located, not less than 10 or more than 30 days prior to the date of the hearing, and an affidavit of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the commissioner in support of or in opposition to the application. Upon completion of a transcript of the testimony given at such hearing, the transcript shall be filed in the office of the commissioner. Within 14 days after the public hearing, the commissioner shall approve or disapprove the application after consideration of the application and evidence gathered during the commissioner's investigation.

(i) The commissioner may extend the period for approval or disapproval if the commissioner determines that any information required by this section has not been furnished, any material information submitted is inaccurate or additional investigation is required. The commissioner, prior to expiration of the application period provided in this section, shall give written notice to the applicant of the commissioner's intent to extend the period. Such notice shall include a specific date for expiration of the extension period. If any information remains incomplete or inaccurate upon the expiration of the extension period the application shall be disapproved.

(j) Within 15 days after the date of the commissioner's approval or disapproval of the application, the applicant or any individual or corporation who filed a request for and presented evidence at the public hearing shall have the right to appeal in writing to the state banking board the commissioner's determination by filing a notice of appeal with the commissioner. The board shall fix a date for a hearing, which hearing shall be held within 45 days from the date the notice of appeal is filed. The board shall conduct the hearing in accordance with the provisions of the Kansas administrative procedure act and render its decision affirming or rescinding the determination of the commissioner. Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act. Any party which files an appeal of the commissioner's determination to the board shall pay to the commissioner a fee in an amount established by rules and regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's expenses associated with the conduct of the appeal.

(k) When the commissioner determines that any bank domiciled in this state has established or is operating a trust branch bank in violation of the laws governing the operation of such bank, the commissioner shall give written notice to the bank of such determination. Within 15 days after receipt of such notification, the bank shall have the right to appeal in writing to the board the commissioner's determination. The board shall fix a date for hearing, which

hearing shall be held within 45 days after the date of such appeal and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. At such hearing the board shall hear all matters relevant to the commissioner's determination and shall approve or disapprove the commissioner's determination, and the decision of the board shall be final and conclusive. If the bank does not appeal to the board from the commissioner's determination or if an appeal is made and the commissioner's determination is upheld by the board, the commissioner may proceed as provided in K.S.A. 9-1714, and amendments thereto, until such time as the commissioner determines the bank is in full compliance with the laws governing the operation of a trust branch bank.

History: L. 1994, ch. 51, § 4; L. 2001, ch. 5, § 42; L. 2010, ch. 17, § 27; July 1.