

## 2021 Kansas Statutes

**9-801. Incorporation; application; criteria for approval of application.** (a) No bank or trust company shall be organized or incorporated under the laws of this state nor transact either a banking business or a trust business in this state, until the application for such bank's or trust company's incorporation and application for certificate of authority has been submitted to and approved by the state banking board. The form for making any such application shall be prescribed by the state banking board and any application made to the state banking board shall contain such information as the state banking board shall require.

(b) No private bank shall engage in the banking business in this state.

(c) The state banking board shall not accept an application unless:

(1) The bank or trust company is organized by five or more persons who shall also be stockholders of the proposed bank or trust company or parent company of the proposed bank or trust company;

(2) at least five of the organizers are residents of the state of Kansas and at least those five sign and acknowledge the articles of incorporation;

(3) the name selected for a bank is different from that of any other bank: (A) Doing business in the same city or town; and

(B) within a 15-mile radius of the proposed location;

(4) the name selected for the trust company is different or substantially dissimilar from any other trust company doing business in this state; and

(5) the articles of incorporation contain the names and addresses of the bank's or the trust company's stockholders and the amount of common stock subscribed by each. The articles of incorporation may contain such other provisions as are consistent with the general corporation code.

(d) Any bank or trust company may request an exemption from the commissioner from the provisions of subsections (c)(3) and (c)(4).

(e) If the state banking board shall determine any of the following factors unfavorably to the applicants, the application may be denied:

(1) The financial standing, general business experience and character of the organizers and incorporators;

(2) the character, qualifications and experience of the officers of the proposed bank or trust company;

(3) the public need for the proposed bank or trust company in the community wherein it is proposed to locate the same and whether existing banks or trust companies are meeting such need;

(4) the prospects for success of the proposed bank or trust company; and

(5) any other criteria the state banking board may require.

(f) The state banking board shall not make membership in any federal government agency a condition precedent to the granting of the authority to do business.

(g) The state banking board may require fingerprinting of any officer, director, incorporator or any other person of the proposed trust company related to the application deemed necessary by the state banking board. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdictions. The state banking board may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons

associated with the applicant trust company to be issued a charter. Whenever the state banking board requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(h) Any final action of the state banking board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act.

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

**History:** L. 1947, ch. 102, § 4; L. 1975, ch. 44, § 5; L. 1977, ch. 45, § 1; L. 1985, ch. 56, § 1; L. 1989, ch. 48, § 12; L. 2015, ch. 38, § 23; L. 2016, ch. 54, § 4; July 1.