

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2133**

As Amended by Senate Committee on Financial  
Institutions and Insurance

**Brief\***

HB 2133, as amended, would amend the Technology-enabled Fiduciary Financial Institutions (TEFFI) Act to state a fiduciary financial institution “shall be designated, recognized, and referenced as a chartered trust company as defined in KSA 9-701, and amendments thereto, by the Office of the State Bank Commissioner (OSBC) without exception.” The bill would make references to this recognition and other modifications to provisions in the TEFFI Act pertaining to reporting to the Commissioner and examination, use of the business name, and general powers assigned to authorized fiduciary financial institutions.

The bill would be in effect upon publication in the *Kansas Register*.

***Reporting to the Bank Commissioner; Oversight as  
Chartered Trust Company***

The bill would add a provision to the fiduciary financial institution’s reporting requirements to the State Bank Commissioner stating a fiduciary financial institution shall be:

- Overseen, supervised, and examined by the OSBC as a chartered trust company as defined in the Kansas Banking Code (KSA 9-701) exercising fiduciary powers and engaging in trust business pursuant to general powers’ provisions within the

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

TEFFI Act and rules and regulations adopted pursuant to Kansas state law by such office; and

- Designated, recognized, and referenced as a chartered trust company as defined in KSA 9-701 by the OSBC without exception.

***Advertising; Use of Business Name***

The bill would amend provisions pertaining to a fiduciary financial institution's business name and advertising to clearly state a fiduciary financial institution is a chartered trust company as defined in the Kansas Banking Code (KSA 9-701) for all purposes under federal and state law as if authorized under KSA 9-804(c) [organization, certificate, authorization to transact either general banking or trust business].

The bill would also provide that nothing in these naming provisions or in KSA 9-2011 (penalties, unlawful advertisement, publication, or otherwise promulgation that an individual, firm, or corporation is engaged in the banking or trust business without prior approval of the Bank Commissioner) shall restrict a fiduciary financial institution from publishing or promulgating itself as a trust company as defined in the Kansas Banking Code in legal or regulatory filings or in disclosures to existing or prospective customers or investors.

The bill would make clarifying changes to references to name or naming to add references to business name.

***General Powers; Exercising Full Trust Powers, Engaging as Trust Company in Trust Business; Publication and Promulgation as a Chartered Trust Company***

Under current law, a fiduciary financial institution is authorized to exercise by its board of directors or duly

authorized officers or agents, subject to law, the following powers:

- To engage in fidfin transactions in accordance with law (powers and duties pertaining to extension of credit or credit to a fidfin trust);
- To receive, retain, and manage alternative asset custody accounts in accordance with law (custodial services); and
- To engage in trust business as defined in the Kansas Banking Code applicable to supervision (KSA 9-701).

The bill would modify this third defined power to permit the fiduciary financial institution to exercise fiduciary powers and full trust powers and to engage, as a trust company, in trust business and any other applicable federal or state law or rules and regulations, in any manner that assists in the performance of the activities in the first two defined powers.

The bill would add a general power to authorize the fiduciary financial institution and its board, officers, or agents to publish and promulgate itself as a chartered trust company as defined in the Kansas Banking Code (KSA 9-701) in legal or regulatory filings or in disclosures to existing or prospective customers or investors, subject only to the restriction on business name (as provided in KSA 9-2308).

## **Background**

[*Note:* 2022 SB 337 amended provisions within the TEFFI Act to clarify and retroactively codify the intended date for issuance of a full charter to the Beneficient Company. The bill specified that on December 31, 2021, the conditional charter granted under this pilot program shall be converted to a full fiduciary financial institution charter.]

HB 2133, as it passed the House, would repeal the prohibition on imposing a surcharge on payments made by credit or debit cards. As amended by the Senate Committee, the bill would address only the regulation and certain activities, duties, and powers associated with fiduciary financial institutions.

***Senate Committee on Financial Institutions and Insurance***

In the Senate Committee meeting on April 4, the Committee reviewed SB 204, which pertained to modifying definitions in the TEFPI Act to reference the term “qualified charities” and make changes in the corresponding tax statute applicable to the tax liability of a fiduciary financial institution and its qualified charitable distributions. [*Note:* The Senate Committee previously recommended SB 204, as amended by the Committee. The bill was withdrawn from the Calendar and re-referred to the Senate Committee on April 4.]

The President and Chief Fiduciary Officer, the Beneficient Company Group, was recognized to provide **proponent** testimony addressing a balloon amendment distributed in the meeting. The testimony highlighted the need for urgent resolution to permit Beneficient and Beneficient Fiduciary Financial, LLC (BFF) to make full and adequate disclosures to the judiciary and state and federal regulators; address unresolved issues with the Office of the State Bank Commissioner, which would allow Beneficient’s registration statement with the U.S. Securities and Exchange Commission to become effective later this month; and allow BFF to represent to its current and future customers that it is a regulated trust company under Kansas law. The representative noted Beneficient is in the final stages of becoming a public company and such listing would enable expansion of BFF’s trust and liquidity services.

The Senate Committee amended the contents of SB 204 by removing its contents and inserting contents that

would modify and add provisions to three sections within the TEFFI Act pertaining to reporting to the Commissioner and recognition and reference of a fiduciary financial institution as a chartered trust company, restrictions on business name and the ability for a fiduciary financial institution to be recognized as a trust company in certain legal or regulatory filings or in certain disclosures, and general powers of fiduciary financial institutions and the authorization to engage in trust business. The Senate Committee recommended replacing the contents of HB 2133, as recommended by the House Committee on Financial Institutions and Pensions, with its modified contents of SB 204.

### **Fiscal Information**

A fiscal note is not immediately available for the bill, as amended by Senate Committee.

Financial institutions; Technology-enabled Fiduciary Financial Institutions Act; TEFFI; chartered trust company; business name; regulatory filings; customer and investor disclosures; powers