

Substitute for SENATE BILL No. 64

By Committee on Financial Institutions and Insurance

2-10

1 AN ACT concerning banking; allowing the obtaining of fingerprints from
2 certain individuals for certain purposes; amending K.S.A. 9-1722 and
3 9-1801 and K.S.A. 2011 Supp. 9-509 and repealing the existing
4 sections.
5

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

7 Section 1. K.S.A. 2011 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 commissioner.

16 (b) An application for a license shall be submitted on forms
17 prescribed by the commissioner. The application shall be accompanied by
18 an application fee as established by rules and regulations adopted by the
19 commissioner. *The commissioner may require fingerprinting of any*
20 *individual, officer, director, partner, member, shareholder or any other*
21 *person related to the application deemed necessary by the commissioner.*
22 *Such fingerprints may be submitted to the Kansas bureau of investigation,*
23 *federal bureau of investigation or other law enforcement agency for the*
24 *purposes of verifying the identity of such person and obtaining the records*
25 *of such person's criminal arrests and convictions. Whenever the*
26 *commissioner requires fingerprinting, any associated costs shall be paid*
27 *by the applicant or the parties to the application. If the applicant is a*
28 *publicly traded corporation or a subsidiary of a publicly traded*
29 *corporation, no fingerprint check shall be required. In addition, each*
30 *person submitting an application shall meet the following 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. The
35 commissioner may require any person to file a statement at any other time
36 upon request;

1 (2) such person shall deposit and at all times keep on deposit with the
2 state treasurer, or a bank in this state approved by the commissioner, cash
3 or securities satisfactory to the commissioner in an amount not less than
4 \$200,000. The commissioner may increase the amount of cash or securities
5 required up to a maximum of \$500,000 upon the basis of the impaired
6 financial condition of a person, as evidenced by a reduction in net worth,
7 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 obligations
20 of such person in respect to the receipt, handling, transmission and
21 payment of monetary value. The aggregate liability of the surety for all
22 breaches of the conditions of the bond shall, in no event, exceed the
23 amount of such bond. The surety on the bond shall have the right to cancel
24 such bond upon giving 30 days' notice to the commissioner and thereafter
25 shall be relieved of liability for any breach of condition occurring after the
26 effective date of the cancellation. The commissioner or any aggrieved
27 party may enforce claims against such deposit of cash or securities or
28 surety bond. So long as the depositing person is not in violation of this act,
29 such person shall be permitted to receive all interest and dividends on the
30 deposit and shall have the right to substitute other securities satisfactory to
31 the commissioner. If the deposit is made with a bank, any custodial fees
32 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. 9-1722 is hereby amended to read as follows: 9-1722.

41 (a) A notice of a proposed bank acquisition filed pursuant to K.S.A. 9-
42 1721, and amendments thereto, shall contain the following information:

43 (1) The identity, personal history, business background and

1 experience of each person by whom or on whose behalf the acquisition is
2 to be made, including such person's material business activities and
3 affiliations during the past five years and a description of any material
4 pending legal or administrative proceedings in which the person is a party
5 and any criminal indictment or conviction of such person by a state or
6 federal court;

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

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

20 (4) the identity, source and amount of the funds or other
21 considerations used or to be used in making the acquisition and, if any part
22 of these funds or other considerations has been or is to be borrowed or
23 otherwise obtained for the purpose of making the acquisition, a description
24 of the transaction, the names of the parties, and any arrangements,
25 agreements or understandings with such persons;

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

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

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

38 (8) any additional relevant information in such forms as the
39 department may require by specific request in connection with any
40 particular notice.

41 (b) *With regard to any trust company which files a notice pursuant to*
42 *this section, the commissioner may require fingerprinting of any proposed*
43 *officer, director, shareholder or any other person deemed necessary by the*

1 *commissioner. Such fingerprints may be submitted to the Kansas bureau of*
2 *investigation, federal bureau of investigation or other law enforcement*
3 *agency for the purposes of verifying the identity of such persons and*
4 *obtaining the records of their criminal arrests and convictions. Whenever*
5 *the commissioner requires fingerprinting, any associated costs shall be*
6 *paid by the applicant or the parties to the application.*

7 (c) The commissioner may accept an application filed with the federal
8 reserve bank or federal deposit insurance corporation in lieu of a statement
9 filed pursuant to subsection (a). The commissioner may, in addition to
10 such application, request additional relevant information.

11 (e) (d) At the time of filing a notice of a proposed bank acquisition
12 pursuant to K.S.A. 9-1721, and amendments thereto, or an application
13 filed pursuant to subsection (b), the applicant shall pay to the
14 commissioner a fee in an amount established by rules and regulations
15 adopted by the commissioner.

16 Sec. 3. K.S.A. 9-1801 is hereby amended to read as follows: 9-1801.

17 (a) No bank or trust company shall be organized or incorporated under the
18 laws of this state, nor shall any such institution transact either a banking
19 business or a trust business in this state, until the application for its
20 incorporation and application for authority to do business has been
21 submitted to and approved by the board. The board shall approve or
22 disapprove the organization and establishment of any such institution in
23 the city or town in which the same is sought to be located. The form for
24 making any such application shall be prescribed by the board and any
25 application made to the board shall contain such information as it shall
26 require. *The board may require fingerprinting of any officer, director,*
27 *incorporator or any other person of the proposed trust company related to*
28 *the application deemed necessary by the board. Such fingerprints may be*
29 *submitted to the Kansas bureau of investigation, federal bureau of*
30 *investigation or other law enforcement agency for the purposes of*
31 *verifying the identity of such persons and obtaining the records of their*
32 *criminal arrests and convictions. Whenever the board requires*
33 *fingerprinting, any associated costs shall be paid by the applicant or the*
34 *parties to the application.* The board shall not approve any such
35 application until it first investigates and examines such application and the
36 applicants.

37 (b) If upon the dissolution, insolvency or appointment of a receiver of
38 any bank, trust company, national bank association, savings and loan
39 association, savings bank or credit union, it is the opinion of the
40 commissioner that by reason of the loss of services in the community, an
41 emergency exists which may result in serious inconvenience or losses to
42 the depositors or the public interest in the community, the commissioner
43 may accept and approve an application for incorporation and application

1 for authority to do business from applicants for the organization and
2 establishment of a successor bank or trust company.

3 Sec. 4. K.S.A. 9-1722 and 9-1801 and K.S.A. 2011 Supp. 9-509 are
4 hereby repealed.

5 Sec. 5. This act shall take effect and be in force from and after its
6 publication in the statute book.