

2018 Kansas Statutes

9-1111. Branch banking; remote service units. The general business of every bank shall be transacted at the place of business specified in the bank's certificate of authority and at one or more branch banks established and operated as provided in this section. It shall be unlawful for any bank to establish and operate any branch bank or relocate an existing branch bank except as hereinafter provided. Notwithstanding the provisions of this section, any location at which a depository institution, as defined by K.S.A. 9-701, and amendments thereto, receives deposits, renews time deposits, closes loans, services loans or receives payments on loans or other obligations, as agent, for a bank pursuant to K.S.A. 9-1101(a)(25), and amendments thereto, or other applicable state or federal law, or is authorized to open accounts or receive deposits under K.S.A. 9-1101(a)(28), and amendments thereto, shall not be deemed to be a branch bank:

(a) For the purposes of this section, the term "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, at which deposits are received, checks paid, money lent or trust authority exercised, if approval has been granted by the commissioner pursuant to K.S.A. 9-1602, and amendments thereto;

(b) establishment of a new branch bank or relocation of an existing branch banks [bank]:

(1) After first applying for and obtaining the approval of the commissioner, a bank incorporated under the laws of this state may establish and operate one or more branch banks or relocate an existing branch bank, anywhere within this state;

(2) the application shall include the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by the proposed branch bank, the personnel and office facilities to be provided at the proposed branch bank and other information the commissioner may require;

(3) the application shall include the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank: (A) Doing business in the same city or town; or

(B) within a 15-mile radius of the proposed location, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed branch bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that it is a branch bank of the applicant bank. Any bank may request exemption from the commissioner from the provisions of this paragraph;

(4) the application shall include proof of publication of notice that the applicant bank intends to file or has filed an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

(5) upon receipt of the application, and following expiration of the comment period, the commissioner may hold a hearing in the county in which the applicant bank seeks to operate the branch bank. The applicant shall publish notice of the time, date and place of such hearing in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank, not less than 10, nor more than 30, days prior to the date of the hearing, and proof 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, or the commissioner's designee, in support of or in opposition to the branch bank. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner;

(6) if the commissioner determines a public hearing is not warranted, the commissioner shall approve or disapprove the application within 15 days after receipt of a complete application, but not prior to the end of the comment period. If a public hearing is held, the commissioner shall approve or disapprove the application within 60 days after consideration of the complete application and the evidence gathered during the commissioner's investigation. The period for consideration of the application may be extended if the commissioner determines the application presents a significant supervisory concern. The new branch or relocation shall only be granted if the commissioner finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and

(B) the applicant bank's financial history and condition is sound;

(7) within 15 days after any final action of the commissioner approving or disapproving an application, the applicant, or any adversely affected or aggrieved person that provided written comments during the specified comment period, may request a hearing with the state banking board. Upon receipt of a timely request, the state banking board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. Any decision of the state banking board is subject to review in accordance with the Kansas judicial review act;

(c) upon the request of any bank proposing to relocate an existing branch less than one mile from the existing location, the commissioner may exempt such bank from the requirements of this section;

(d) any branch bank lawfully established and operating on the effective date of this act may continue to be operated by the bank then operating the branch bank and by any successor bank;

(e) any bank location which has been established and is being maintained by a bank at the time of the bank's merger into or consolidation with another bank or at the time the bank's assets are purchased and the bank's liabilities are assumed by another bank may continue to be operated by the surviving, resulting or purchasing and assuming bank;

(f) any state bank or national banking association may provide and engage in banking transactions by means of remote service units wherever located, which remote service units shall not be considered to be branch banks. Any banking transaction effected by use of a remote service unit shall be deemed to be transacted at a bank and not at a remote service unit;

(g) as a condition to the operation and use of any remote service unit in this state, a state bank or national banking association, each hereinafter referred to as a bank, which desires to operate or enable its customers to utilize a remote service unit must agree that such remote service unit will be available for use by customers of any other bank or banks upon the request of such bank or banks to share the use of the remote service unit and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with the remote service unit's development, installation and operation. The owner of the remote service unit, whether a bank or any other person, shall make the remote service unit available for use by other banks and their customers on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion of all costs, including a reasonable return on capital expenditures incurred in connection with the development, installation and operation of the remote service unit. Notwithstanding the foregoing provisions of

this subsection, a remote service unit located on the property owned or leased by the bank where the principal place of business of a bank, or branch bank of a bank, is located need not be made available for use by any other bank or banks or customers of any other bank or banks;

(h) for purposes of this section, "remote service unit" means an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank or is activated by a person upon verifiable personal identification. The term shall include "online" computer terminals which may be equipped with a telephone or televideo device that allows contact with bank personnel and "offline" automated cash dispensing machines and automated teller machines. Withdrawals by means of "offline" systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts;

(i) upon providing notice to the commissioner, any state bank may conduct loan production activity at locations other than the place of business specified in the bank's certificate of authority or approved branch banks.

(1) Loan production activity shall consist of the following:

(A) Soliciting, assembling or processing of credit information and loan applications;

(B) approval of loan applications; or

(C) loan closing activities, such as the execution of promissory notes and deeds of trust.

(2) No customer shall be allowed to take actual receipt of the loan funds;

(j) upon providing notice to the commissioner, any state bank may conduct deposit production activity at locations other than the place of business specified in the bank's certificate of authority or approved branch banks provided there is no acceptance of actual deposits in person or by drop box;

(k) upon providing notice to the commissioner, any state bank may provide any of the following at a location other than the place of business specified in the bank's certificate of authority without becoming a branch bank:

(1) Operate safe deposit boxes;

(2) sell travelers checks and saving bonds; and

(3) operate check cashing services so long as no actual account withdrawal occurs;

(l) any bank or trust company closing a branch bank, loan production office, deposit production office or other location shall provide notice to the commissioner.

History: L. 1947, ch. 102, § 40; L. 1957, ch. 72, § 1; L. 1967, ch. 70, § 1; L. 1973, ch. 46, § 1; L. 1975, ch. 43, § 1; L. 1975, ch. 44, § 16; L. 1978, ch. 45, § 2; L. 1984, ch. 49, § 2; L. 1984, ch. 50, § 1; L. 1984, ch. 48, § 5; L. 1986, ch. 57, § 8; L. 1986, ch. 58, § 1; L. 1987, ch. 53, § 1; L. 1990, ch. 58, § 1; L. 1992, ch. 61, § 1; L. 1994, ch. 51, § 5; L. 1995, ch. 79, § 15; L. 1997, ch. 180, § 12; L. 2001, ch. 87, § 7; L. 2010, ch. 17, § 26; L. 2015, ch. 38, § 49; L. 2016, ch. 54, § 24; July 1.

Revisor's Note:

Section was also amended by L. 2015, ch. 33, § 8, but that version was repealed by L. 2015, ch. 100, § 17.