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LEGISLATURE of THE STATE of KANSAS  
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**MEMORANDUM**

To: Chairman Longbine and members of the Senate Financial Institutions and Insurance Committee  
From: Office of Revisor of Statutes  
Date: March 3, 2022  
Subject: **HB 2489; Amending provisions of the technology-enabled fiduciary financial institutions act relating to fees and assessments, examinations, disclosures to consumers and requiring such institutions to be mandatory reporters for purposes of elder abuse.**

House Bill No. 2489 provides several amendments to the TEFFI act. In addition to making technical amendments to correct subsection references, grammatical errors and to provide consistent terminology throughout the act, the bill:

Amends the definition of "fidfin" to mean the financing of a fidfin trust or the acquisition of alternative assets on behalf of and through a fidfin trust, or both, including loans, extensions of credit and direct investments." **Sec. 1(b)(8), Page 3.**

Strikes language allowing the state banking board to fingerprint "any other person" of the proposed TEFFI related to the application deemed necessary by the state banking board. **Sec. 2(f), Page 6.**

Amends language regarding the \$500,000 TEFFI initial fee. An application for a TEFFI charter shall include a nonrefundable fee to be remitted in a manner prescribed by the commissioner. Until July 1, 2025, such fee is \$250,000 and on and after July 1, 2025, the fee is \$100,000. **Sec. 3(a), Page 8.**

Amends language regarding the sending of TEFFI assessment statements from the commissioner. The statement shall be sent on July 1 instead of December 1 as under current law and payment of such assessment shall be made by the TEFFI within 15 business days after the date the statement was sent in a manner prescribed by the commissioner. The commissioner may allow installment periods for payment but not more frequently than monthly. **Sec. 3(b)(1), Page 9.**

Amends language relating to examination of TEFFIs. The commissioner would not evaluate the safety and soundness of a TEFFI but the commissioner shall:

1. Evaluate the profitability of a TEFFI;
2. evaluate a TEFFI's compliance with applicable state and federal laws; and
3. evaluate a TEFFI's information technology system, policies and practices. **Sec. 5(b)(4),**

**Page 13.**

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Amends the powers of a TEFFI to engage in trust business by requiring such trust business be incidental to engaging in fidfin transactions and to receiving, retaining and managing alternative asset custody accounts. **Sec. 6(c), Page 14.**

Adds language to state when a TEFFI may extend financing such as through loans or extensions of credit. **Sec. 7, Page 14.**

Requires a TEFFI to disclose to a customer the information required by rules and regulations of the commissioner to ensure that the customer is informed regarding the nature of the customer's transactions with the TEFFI, taking into account the level of sophistication of the customer. **Sec. 7(h), Page 16.**

Adds language that whenever a TEFFI, by contract or otherwise, causes any service authorized by the TEFFI act or the state banking code, to be performed for such TEFFI, the performance shall be subject to regulation and examination by the commissioner to the same extent as if such service was performed by the TEFFI itself. **Sec. 8(f), Page 17.**

Adds language that when an entity is appointed as a trust advisor, such entity shall notify the commissioner in writing within 30 days of the establishment of such capacity to act as a trust advisor. **Sec. 9(b), Page 18.**

Finally, the bill amends K.S.A. 39-1401 to add "fiduciary financial institution" to the definition of "financial institution" making a fiduciary financial institution a mandatory reporter of elder abuse. Under current law any bank, trust company, escrow company, finance company, saving institution or credit union, chartered and supervised under state or federal law is considered a financial institution and is required to report elder abuse. **Sec. 11(q), Page 22.**

The House Committee on Financial Institutions and Rural Development amended the bill to strike:

1. The new section concerning procedures when a TEFFI is undercapitalized or insolvent. (New section 1, pages 1-2; Page 10, lines 22-23, definition of "insolvent")
2. Provisions relating to new grounds for denial of TEFFI applications. (Page 6, lines 29-34)
3. Provisions relating to bonds and insurance policies and capitalization requirements. (Page 11, lines 5-14)
4. References to safety and soundness. (Page 12, lines 36 and 38; Page 13, lines 4 and 10)
5. Provisions allowing the commissioner or the banking board to examine any aspect of a TEFFI to aid in understanding the TEFFI's business operations. (Page 13, lines 30-35)
6. References to a customer's role in fidfin transactions. (Page 14, lines 17-19)
7. Language requiring the commissioner adopt rules and regulations regarding asset class categories. (Page 16, lines 8-17)
8. Provisions relating to the termination of the pilot program. (Page 18, lines 21-43; Page 19 and Page 20, lines 1-12). *See also SB 337.*

The House passed HB 2489 120-0 on February 16, 2022.