KANSAS STATUTES

Chapter 9 – BANKS AND BANKING; TRUST COMPANIES

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Chapter 9 – BANKS AND BANKING; TRUST COMPANIES

Article 23 – TECHNOLOGY-ENABLED FIDUCIARY FINANCIAL INSTITUTIONS

K.S.A. 9-2301. Citation of act; definitions.

(a) The provisions of K.S.A. 9-2301 through 9-2327, and amendments thereto, and 2026 HB 2591 section 13, and amendments thereto, shall be known and may be cited as the technology-enabled fiduciary financial institutions act. The technology-enabled fiduciary financial institutions act shall be a part of and supplemental to chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(b) For purposes of the technology-enabled fiduciary financial institutions act:

(1) "Act" means the technology-enabled fiduciary financial institutions act;

(2) "alternative asset" means professionally managed investment assets that are not publicly traded, including, but not limited to, private equity, venture capital, leveraged buyouts, special situations, structured credit, private debt, private real estate funds and natural resources, including any economic or beneficial interest therein;

(3) "alternative asset custody account" means an account created by the owner of an alternative asset that designates a fiduciary financial institution as custodian or agent and into which the owner transfers, electronically or otherwise, content, materials, data, information, documents, reports and contracts in any form, including, without limitation, evidence of ownership, subscription agreements, private placement memoranda, limited partnership agreements, operating agreements, financial statements, annual and quarterly reports, capital account statements, tax statements, correspondence from the general partner, manager or investment advisor of the alternative asset, an investment contract as defined in K.S.A. 17-12a102(28)(E), and amendments thereto, and any digital asset as defined in K.S.A. 58-4802, and amendments thereto, whether such information is in hard copy form or a representation of such information that is stored in a computer readable format;

(4) "charitable beneficiaries" means one or more charities, contributions to which are allowable as a deduction pursuant to section 170 of the federal internal revenue code that are designated as beneficiaries of a fidfin trust;

(5) "custodial services" means the safekeeping and management of an alternative asset custody account, including the execution of customer instructions, serving as agent, fund administrative services and overall decision-making and management of the

account by a fiduciary financial institution. "Custodial services" shall be deemed to involve the exercise of fiduciary and trust powers;

(6) "director" means a person designated as a member of the board of directors pursuant to K.S.A. 9-2306, and amendments thereto;

(7) "economic growth zone" means an incorporated community with a population of not more than 5,000 people located within one of the following counties: Allen, Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson or Woodson;

(8) "excluded fiduciary" means a fiduciary financial institution in its capacity as trustee of a fidfin trust, except that a fiduciary financial institution shall only be deemed an "excluded fiduciary" to the extent the fiduciary financial institution is excluded from exercising certain powers under the instrument that may be exercised by the trust advisor or other persons designated in the instrument;

(9) "fidfin," "fidfin services" or "fidfin transactions" means the financing of a fidfin trust or the acquisition of alternative assets on behalf of and through a fidfin trust, or both, as provided in K.S.A. 9-2311, and amendments thereto, including loans, extensions of credit and direct investments;

(10) "fidfin trust" means a trust created to facilitate the delivery of fidfin services by a fiduciary financial institution;

(11) "fiduciary" means a trustee, a trust advisor or a custodian of an alternative asset custody account appointed under an instrument that is acting in a fiduciary capacity for any person, trust or estate;

(12) "instrument" means any document creating a fidfin trust or alternative asset custody account;

(13) "officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a bank, trust company or fiduciary financial institution, whether or not the officer has an official title or if the officer is serving without salary or other compensation. "Officer" includes the

chairperson of the board, president, vice president, cashier, secretary and treasurer of a bank, trust company or fiduciary financial institution;

(14) "organizer" means a person who filed the fiduciary financial institution formation documents;

(15) "out-of-state bank" means a national or state bank, savings and loan association or savings bank not incorporated under the laws of Kansas;

(16) "out-of-state financial institution" means an out-of-state bank or an out-of-state trust company;

(17) "out-of-state trust company" means a national or state trust company not incorporated under the laws of Kansas;

(18) (A) "qualified investment" means the purchase or development, in the aggregate, of at least 10,000 square feet of commercial, industrial, multiuse or multifamily real estate in the economic growth zone where the fiduciary financial institution maintains its principal office pursuant to K.S.A. 9-2309, and amendments thereto, provided that such community has committed to develop the necessary infrastructure to support a "qualified investment." A "qualified investment":

(i) May include, as part of satisfying the square footage requirements, the suitable office space of such fiduciary financial institution, as provided in K.S.A. 9-2309, and amendments thereto, if owned by the fiduciary financial institution;

(ii) shall be exempt from the provisions and limitations of K.S.A. 9-1102, and amendments thereto;

(iii) may be retained by a fiduciary financial institution for as long as the fiduciary financial institution operates in this state; and

(iv) may be sold, transferred or otherwise disposed of, including a sale or transfer to an affiliate of the fiduciary financial institution, if the fiduciary financial institution continues to maintain its principal office in an economic growth zone pursuant to K.S.A. 9-2309, and amendments thereto;

(B) notwithstanding the foregoing provisions, if a fiduciary financial institution leases any portion of a qualified investment made by another fiduciary financial institution as the lessee fiduciary financial institution's suitable office space:

(i) The lessee fiduciary financial institution shall make, or cause to be made, a qualified investment in an economic growth zone other than the

economic growth zone where such fiduciary financial institution maintains its principal office;

(ii) the leased square footage shall count toward the square footage requirement applicable to a qualified investment under this section, if such lease has an initial term of not less than five years; and

(iii) the square footage requirement otherwise applicable to a qualified investment of the lessee fiduciary financial institution shall be reduced from 10,000 square feet to 5,000 square feet;

(19) "technology-enabled fiduciary financial institution" or "fiduciary financial institution" means any limited liability company, limited partnership or corporation that:

(A) Is organized to perform any one or more of the activities and services authorized by this act;

(B) has been authorized to conduct business as a fiduciary financial institution under this chapter pursuant to the provisions of K.S.A. 9-2302, and amendments thereto;

(C) has made, committed to make or caused to be made a qualified investment; and

(D) has committed, in or as a part of the application provided in K.S.A. 9-2302, and amendments thereto, to conduct any fidfin transactions in accordance with K.S.A. 9-2311, and amendments thereto, including the distributions required therein;

(20) "trust" means a trust created pursuant to the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, or created pursuant to the Kansas business trust act of 1961, K.S.A. 17-2707* et seq., and amendments thereto;

(21) "trust advisor" means a fiduciary granted authority by an instrument to exercise, consent, direct, including the power to direct as provided in K.S.A. 58a-808, and amendments thereto, or approve all or any portion of the powers and discretion conferred upon the trustee of a fidfin trust, including the power to invest the assets of a fidfin trust or make or cause distributions to be made from such fidfin trust; and

(22) the definitions of K.S.A. 9-701, and amendments thereto, apply to fiduciary financial institutions except as otherwise provided in this act.

History: L. 2021, ch. 80, § 1; L. 2022, ch. 55 § 1; L. 2024, ch. 15 § 18; 2026 HB 2591 New Section 20; July 1.

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* OSBC Note: Incorrect statute cited on Revisor's site. Should be 17-2027.

K.S.A. 9-2302. Organization; application for certificate of authority; out of state banks and trust companies criteria for approval; fingerprinting; applicable distribution.

(a) No fiduciary financial institution shall be organized under the laws of this state nor engage in fidfin transactions, custodial services or trust business in this state until the application for such fiduciary financial institution's organization and the application for certificate of authority have 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. Except as provided in K.S.A. 9-2325, and amendments thereto, the state banking board shall not approve any application until the beneficient conditional charter has been converted to a full charter and the commissioner has completed a regulatory examination.

(b) (1) No Kansas-chartered state bank, Kansas-chartered state trust company or fiduciary financial institution shall engage in fidfin transactions in this state unless an application has been submitted under this act and approved by the state banking board.

(2) Except as otherwise provided by this subsection, any trust company whose application has been approved in accordance with this section and any out-of-state trust company engaging in fidfin transactions in this state shall be considered a fiduciary financial institution for the purposes of this act, shall have all rights and powers granted to a fiduciary financial institution under this act and shall owe all duties and obligations imposed on fiduciary financial institutions under this act, including, but not limited to, the fiduciary duties imposed under K.S.A. 9-2311 and 9-2313, and amendments thereto, and the requirements of K.S.A. 9-2302(c)(5) and (6), and amendments thereto.

(3) Any bank whose application has been approved in accordance with this section and any out-of-state bank that engages in fidfin transactions in this state shall have a separate department for handling fidfin transactions. Except as otherwise provided by this subsection, such separate department shall be considered a fiduciary financial institution for the purposes of this act, shall have all rights and powers granted to a fiduciary financial institution under this act and shall owe all duties and obligations imposed on fiduciary financial institutions under this act, including, but not limited to, the fiduciary duties imposed under K.S.A. 9-2311 and 9-2313, and amendments thereto, and the requirements of K.S.A. 9-2302(c)(5) and (6), and amendments thereto.

(4) Notwithstanding the provisions of paragraphs (2) and (3):

(A) A bank or trust company whose application has been approved in accordance with this section or an out-of-state financial institution that engages in fidfin transactions in this state shall not be subject to the provisions of K.S.A. 9-2305, 9-2306 or 9¬2308, and amendments thereto; and

(B) the commissioner shall not examine or require applications, reports or other filings from an out-of-state financial institution that is subject to oversight of such financial institution's fidfin transactions by a governmental agency of the jurisdiction that chartered the out-of-state financial institution.

(c) The state banking board shall not accept an application for a fiduciary financial institution unless the:

(1) Fiduciary financial institution is organized by at least one person;

(2) name selected for the fiduciary financial institution is different or substantially dissimilar from any other bank, trust company or fiduciary financial institution doing business in this state;

(3) fiduciary financial institutions' articles of organization contain the names and addresses of the fiduciary financial institution's members and the number of units subscribed by each. The articles of organization may contain such other provisions as are consistent with the Kansas revised limited liability company act, Kansas revised uniform limited partnership act or Kansas general corporation code;

(4) fiduciary financial institution has made, committed to make or caused to be made a qualified investment as defined in K.S.A. 9-2301, and amendments thereto;

(5) fiduciary financial institution has committed to structure any fidfin transactions to ensure that qualified charitable distributions, as defined in K.S.A. 2025 Supp. 79-32,283, and amendments thereto, are made each calendar year that the fiduciary financial institution conducts fidfin transactions; and

(6) fiduciary financial institution has consulted or agrees to consult with the department of commerce regarding the economic growth zones to be selected for purposes of paragraphs (4) and (5).

(d) The state banking board may deny the application if the state banking board makes an unfavorable determination with regard to the:

(1) Financial standing, general business experience and character of the organizers; or

(2) character, qualifications and experience of the officers of the proposed fiduciary financial institution.

(e) 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.

(f) The state banking board may require fingerprinting of any officer, director or organizer of the proposed fiduciary financial institution in accordance with K.S.A. 2024 Supp. 22-4712, and amendments thereto.

(g) The state banking board or the commissioner shall notify a fiduciary financial institution of the approval or disapproval of an application. 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.

(h) (1) In the event such application is approved, the fiduciary financial institution shall be issued a charter upon compliance with any requirements of this act and upon demonstrating to the satisfaction of the commissioner that an applicable distribution has been made. For purposes of this section, "applicable distribution" means a distribution of cash, beneficial interests or other assets having an aggregate value equal to the greater of:

(A) 2.5% of the aggregate financing balances to be held by the fiduciary financial institution immediately upon issuance of the fiduciary financial institution's charter, as reflected in the fiduciary financial institution's application filed pursuant to this section; or

(B) $5,000,000 in accordance with subsection (i), except that if a fiduciary financial institution is chartered to provide only custodial services, the applicable distribution amount shall be $500,000.

(2) If the amount provided in paragraph (1)(B) exceeds the amount provided in paragraph (1)(A), the fiduciary financial institution shall be entitled to a credit against the amount distributable under K.S.A. 9-2311(f), and amendments thereto, in an amount equal to such excess.

(i) The applicable distribution required under subsection (h) shall be distributed as follows:

(1) (A) To the department of commerce:

Applicable distribution amount	Percentage to department of commerce
$0 to $500,000	90%
$500,001 to $1,000,000	50%

Above $1,000,000	10%

(B) the amounts specified in subparagraph (A) shall apply to fiduciary financial institutions chartered prior to January 1, 2023. For fiduciary financial institutions chartered after such date, the department of commerce may publish one or more schedules in the Kansas register as the department of commerce deems reasonably necessary to facilitate economic growth and development in one or more economic growth zones. No such schedule shall be effective until after its publication in the Kansas register. The department of commerce shall timely submit to the commissioner any schedule published under this section. The commissioner shall provide a copy of such schedule to any applicant for a fiduciary financial institution charter prior to the issuance of such charter. A fiduciary financial institution shall be subject to the schedule in existence on the date such fiduciary financial institution's charter is issued and shall not be subject to any schedules published after such date;

(C) the department of commerce shall remit all distributions under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the technology-enabled fiduciary financial institutions development and expansion fund established in K.S.A. 9-2324, and amendments thereto; and

(2) the balance of the applicable distribution required under subsection (h) shall be distributed to one or more qualified charities as defined in K.S.A. 2025 Supp. 79-32,283, and amendments thereto, as shall be selected by the fiduciary financial institution. Nothing in this section shall preclude a distribution to one or more qualified charities in excess of the amounts provided in this section. An economic growth zone or qualified charity shall have no obligation to repay any distributions received under this act or to make any contributions to a fiduciary financial institution.

History: L. 2021, ch. 80, § 2; L. 2022, ch. 55 § 2; L. 2024, ch. 15 § 19; July 1.

K.S.A. 9-2303. Fees and assessments; examination expenses; remittance of moneys.

(a) An application for a fiduciary financial institution charter shall include a nonrefundable fee to be remitted in a manner prescribed by the commissioner. Until July 1, 2025, the application fee shall be $250,000. On and after July 1, 2025, the application fee shall be $100,000. The expense of every annual regular fiduciary financial institution examination, together with the expense of administering fiduciary financial institution laws, including salaries, travel expenses, third-party fees for consultants or other entities necessary to assist the commissioner, supplies and equipment, shall be paid by the fiduciary financial

institutions of this state. Prior to the beginning of each fiscal year, the commissioner shall make an estimate of the fiduciary financial institution expenses to be incurred by the office of the state bank commissioner during such fiscal year in an amount not less than $1,000,000. The commissioner shall allocate and assess each fiduciary financial institution in this state on the basis of such fiduciary financial institution's total fidfin transaction balances, consisting of the aggregate fidfin financing balances of the fiduciary financial institution reflected in the last December 31 report filed with the commissioner pursuant to K.S.A. 9-1704, and amendments thereto. If a fiduciary financial institution has no fidfin transaction balances, but such fiduciary financial institution is otherwise providing custodial services or trust services, the commissioner shall allocate and assess such fiduciary financial institution in a manner the commissioner deems reasonable and appropriate. A fiduciary financial institution that has no fidfin transaction balances and no alternative asset custody accounts reflected in the last December 31 report filed with the commissioner may be granted inactive status by the commissioner. The annual assessment shall not exceed $10,000 for such an inactive fiduciary financial institution. The annual fee shall be first assessed for the year immediately following the year the fiduciary financial institution received authority to engage in fidfin transactions, custodial services and trust business and for each year thereafter.

(b) (1) A statement of each assessment made under the provisions of subsection (a) shall be sent by the commissioner on July 1 or the next business day thereafter to each fiduciary financial institution. When the commissioner issues such a statement, payment shall be made within 15 business days after the date the statement was sent in a manner prescribed by the commissioner, which may include such installment periods as the commissioner deems appropriate but not more frequently than monthly.

(2) The commissioner shall remit all moneys received from such fees and assessments to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit 75% of each remittance to the bank commissioner fee fund and 25% to the technology-enabled fiduciary financial institutions development and expansion fund established in K.S.A. 9-2324, and amendments thereto.

History: L. 2021, ch. 80, § 3; L. 2022, ch. 55 § 3; July 1.

K.S.A. 9-2304. Provisions of state banking code applicable; exceptions; conflict of law.

(a) To the extent a conflict does not exist between this act and chapter 9 of the Kansas Statutes Annotated, and amendments thereto, except as provided in subsections (b), (c) and (e), the provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall apply to a fiduciary financial institution in the same manner as it applies to a trust company

except that references in chapter 9 of the Kansas Statutes Annotated, and amendments thereto, to:

(1) "Capital stock" includes membership capital and partner capital;

(2) "stock" includes membership units and partnership interests;

(3) "common stock" includes common units and common interests;

(4) "preferred stock" includes preferred units and preferred interests;

(5) "stockholders" includes members and partners;

(6) "articles of incorporation" includes articles of organization and articles of limited partnership;

(7) "incorporation" includes organization;

(8) "corporation" includes company and partnership;

(9) "corporate" includes company and partnership;

(10) "trust business" and "business of a trust company" includes fidfin and fiduciary financial institution business; and

(11) K.S.A. 9-901a(a), and amendments thereto, means K.S.A. 9-2305, and amendments thereto.

(b) For a Kansas-chartered state trust company that receives authority to engage in fidfin transactions under K.S.A. 9¬2302(b), and amendments thereto, the provisions of subsection (a) shall not apply, however, references in chapter 9 of the Kansas Statutes Annotated, and amendments thereto, to "trust business" and "business of a trust company" include fidfin and fiduciary financial institution business.

(c) For a Kansas-chartered state bank that receives authority to engage in fidfin transactions under K.S.A. 9-2302(b), and amendments thereto, the provisions of subsection (a) shall not apply, however, the provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall apply in the same manner as they would apply to a trust department of such bank, except that references in chapter 9 of the Kansas Statutes Annotated, and amendments thereto, to "trust business" and "business of a trust company" include fidfin and fiduciary financial institution business.

(d) (1) Except as provided in paragraph (2), if any conflict exists between any provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, and this act, the provisions of this act shall control.

(2) If the fiduciary financial institution is a bank department or trust company that received authority to engage in fidfin transactions under K.S.A. 9-2302(b), and amendments thereto, the provisions of this act shall only control with regard to fidfin transactions as authorized under K.S.A. 9-2302(b), and amendments thereto.

(e) The provisions of this section shall not apply to an out-of-state financial institution.

History: L. 2021, ch. 80, § 4; L. 2022, ch. 55 § 4; July 1.

K.S.A. 9-2305. Capitalization requirements.

(a) For purposes of this section, "capital" means the total of the aggregate par value of a fiduciary financial institution's outstanding membership units, its surplus and its undivided profits.

(b) (1) The required capital for fiduciary financial institutions shall at all times be $250,000 when:

(A) The fiduciary financial institution does not accept deposits, other than alternative asset custody accounts;

(B) the fiduciary financial institution maintains no third-party debt except debts owed to the members of the fiduciary financial institution or affiliates of the fiduciary financial institution; and

(C) the fiduciary financial institution has secured an agreement from its members whereby such members agree to contribute additional capital to the fiduciary financial institution if needed to ensure the safety and soundness of the fiduciary financial institution. A fiduciary financial institution that fails to satisfy the foregoing requirements shall be subject to the capitalization requirements of K.S.A. 9-901a, and amendments thereto, applicable to trust companies.

(2) The capital of a fiduciary financial institution shall be divided, with 60% of the amount as the aggregate par value of outstanding membership units, 30% as surplus and 10% as undivided profits.

History: L. 2021, ch. 80, § 5; July 1.

K.S.A. 9-2306. Board of directors; membership; annual meeting; oath; notification of commissioner.

(a) The business of any fiduciary financial institution shall be managed and controlled by such fiduciary financial institution's board of directors.

(b) The board shall consist of not less than five nor more than 25 members who shall be elected by the members at any regular annual meeting to be held on the date specified in the fiduciary financial institution's governing documents. At least one director must be a resident of this state.

(c) If, for any reason, the meeting cannot be held on the date specified in the governing documents, the meeting shall be held on a subsequent day within 60 days of the day fixed, to be designated by the board of directors or, if the directors fail to fix the day, by the members representing 2/3 of the membership units.

(d) In all cases, at least 10 days' notice of the date for the annual meeting shall be given to the members.

(e) The annual meeting of a fiduciary financial institution shall be held in this state. Any other meetings of the fiduciary financial institution's management or directors, including the meeting required pursuant to K.S.A. 9-1116, and amendments thereto, may be held in any location determined by the fiduciary financial institution's officers or directors.

(f) Any newly created directorship shall be approved and elected by the members in the manner provided in the fiduciary financial institution's organizational documents or, in the absence of such provisions, in the manner provided by the Kansas revised limited liability company act, Kansas revised uniform limited partnership act or Kansas general corporation code. A special meeting of the members may be convened at any time for such purpose.

(g) Any vacancy in the board of directors may be filled by the board of directors in the manner provided in the fiduciary financial institution's organizational documents or, in the absence of such provisions, in the manner provided by the Kansas revised limited liability company act, Kansas revised uniform limited partnership act or Kansas general corporation code.

(h) Within 15 days after the annual meeting, the president or cashier of each fiduciary financial institution shall submit to the commissioner a certified list of members and the number of units owned by each member. This list of members shall be kept and maintained in the fiduciary financial institution's main office and shall be subject to inspection by all members during the business hours of the fiduciary financial institution. The commissioner may require the list to be filed by electronic means.

(i) Each director shall take and subscribe an oath to administer the affairs of such fiduciary financial institution diligently and honestly and to not knowingly or willfully permit any

of the laws relating to fiduciary financial institutions to be violated. A copy of each oath shall be retained by the fiduciary financial institution, in the fiduciary financial institution's records after the election of any officer or director, for review by the commissioner's staff during the next examination. The commissioner may require the oath to be filed by electronic means.

(j) Every fiduciary financial institution shall notify the commissioner of any change in the chief executive officer, president or directors, including in such fiduciary financial institution's report a statement of the past and current business and professional affiliations of the new chief executive officer, president or directors.

History: L. 2021, ch. 80, § 6; L. 2022, ch. 55 § 5; July 1.

K.S.A. 9-2307. Report to commissioner; examinations; requirements.

(a) A fiduciary financial institution shall make a report to the commissioner pursuant to the provisions of K.S.A. 9-1704, and amendments thereto. In making such a report, a fiduciary financial institution shall:

(1) Report the fiduciary financial institution's fidfin transactions pursuant to generally accepted accounting principles; and

(2) calculate such fiduciary financial institution's capital solvency by including the value of all tangible and intangible assets owned by the fiduciary financial institution, regardless of use.

(b) In examining a fiduciary financial institution, the state banking board and the commissioner shall:

(1) Consider that the collateral or underlying assets associated with fidfin transactions are volatile in nature and that such volatility has been accepted by the members and customers of the fiduciary financial institution;

(2) respect the form, treatment and character of fidfin transactions under the laws of this state notwithstanding the treatment or characterization of such transactions under generally accepted accounting principles or for tax purposes;

(3) evaluate whether available capital, including the agreement of a fiduciary financial institution's members to contribute capital pursuant to K.S.A. 9-2305, and amendments thereto, exceeds the fiduciary financial institution's obligations, determined in accordance with generally accepted accounting principles;

(4) evaluate the background and qualifications of a fiduciary financial institution's executive officers and directors, the internal controls and audit processes enacted by the fiduciary financial institution and adherence to its policies and procedures;

(5) evaluate the profitability of a fiduciary financial institution in accordance with subsection (c);

(6) evaluate a fiduciary financial institution's compliance with applicable state and federal laws; and

(7) evaluate a fiduciary financial institution's information technology systems, policies and practices.

(c) Profitability shall not be a consideration in evaluating a fiduciary financial institution if sufficient capital and equity exist in the business, including, without limitation, membership capital, surplus, undivided profits and commitments by members to contribute additional capital to the fiduciary financial institution pursuant to K.S.A. 9-2305, and amendments thereto, to satisfy the fiduciary financial institution's obligations.

History: L. 2021, ch. 80, § 7; L. 2022, ch. 55 § 6; July 1.

K.S.A. 9-2308. Name of institution; advertising; restrictions.

A fiduciary financial institution may use in such fiduciary financial institution's business name or advertising the words "fiduciary financial institution" or any similar term or phrase, but may not use in such institution's name the words "bank" or "trust company" without reference to fidfin trusts or any other term that tends to imply that such fiduciary financial institution is a bank or trust company, unless the commissioner has approved the use in writing after finding that the use will not be misleading. While a fiduciary financial institution is a trust company for purposes of federal and state law and rules and regulations and possesses trust powers under this act, it is the intent of this section to impose restrictions on the name of such institution to avoid confusion with other banks and trust companies that operate in this state but that are not fiduciary financial institutions. The naming restrictions imposed under this section shall in no way reduce or eliminate the trust powers granted to a fiduciary financial institution as a trust company under this act. Other than indicating that the fiduciary financial institution is headquartered and chartered in Kansas, no fiduciary financial institution's name or advertising shall infer or imply that such fiduciary financial institution is endorsed by, an affiliate of or otherwise connected with the government of the state of Kansas.

History: L. 2021, ch. 80, § 8; July 1.

K.S.A. 9-2309. Maintaining suitable office space; requirements; staffing; maintenance of records.

(a) A fiduciary financial institution shall:

(1) Maintain suitable office space in an economic growth zone, as defined in K.S.A. 9-2301, and amendments thereto, for fidfin transactions, custodial services and trust business and for the storage of, and access to, fiduciary financial institution records;

(2) employ, engage or contract with at least three employees to provide services for the fiduciary financial institution in Kansas related to the powers of the fiduciary financial institution and to facilitate the examinations required by this act; and

(3) perform fidfin transactions, custodial services and trust business in Kansas, and a fiduciary financial institution may also engage in fidfin transactions, custodial services and trust business in other states to the extent permitted by applicable law.

(b) As used in this section, the term "suitable office space" means at least 2,000 square feet of class A office space located in an economic growth zone selected by the fiduciary financial institution that the fiduciary financial institution utilizes as such fiduciary financial institution's principal office.

(c) The fiduciary financial institution's principal office shall:

(1) Be in premises distinct and divided from the office space of any other entity;

(2) be located in an economic growth zone selected by the fiduciary financial institution;

(3) have the name, charter and certificate of authority of the fiduciary financial institution prominently displayed;

(4) have access to premises in or adjacent to the office space sufficient to facilitate on-site examinations by the state banking board or commissioner;

(5) to the extent the fiduciary financial institution maintains hard copies of any documents required to be maintained under this chapter, have a secure fireproof file cabinet that contains all such hard copies; and

(6) to the extent the fiduciary financial institution maintains any record electronically, have a secure computer terminal or other secure electronic device that provides access

to such records, including account information, as necessary to facilitate an efficient and effective examination.

(d) Fidfin transactions, custodial services and trust business is deemed to have been performed in Kansas for purposes of this section if fidfin transaction or custodial service agreements are approved or signed in this state on behalf of the fiduciary financial institution and at least three of the following acts are performed by a technology platform wholly or partly operated in this state:

(1) Annual account reviews;

(2) annual investment reviews;

(3) trust or custodial accounting;

(4) account correspondence;

(5) reviewing and signing trust account or custodial account tax returns; or

(6) distributing account statements.

History: L. 2021, ch. 80, § 9; July 1.

K.S.A. 9-2310. General powers.

Any fiduciary financial institution is hereby authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, the following powers:

(a) To engage in fidfin transactions in accordance with K.S.A. 9-2311, and amendments thereto;

(b) to receive, retain and manage alternative asset custody accounts in accordance with K.S.A. 9-2313, and amendments thereto; and

(c) to engage in trust business as defined in K.S.A. 9-701, and amendments thereto, as incidental to the activities in subsections (a) and (b).

History: L. 2021, ch. 80, § 10; L. 2022, ch. 55 § 7; July 1.

K.S.A. 9-2311. Financing; required distribution amount; schedules; remittance of moneys; disclosure to consumers.

(a) If authorized by the terms of an instrument as such term is defined in K.S.A. 9-2301, and amendments thereto, a fiduciary financial institution may:

(1) Extend financing, such as through loans or extensions of credit to a fidfin trust when:

(A) The fiduciary financial institution serves as trustee of the borrowing fidfin trust;

(B) the financing is collateralized or supported by the assets of such fidfin trust;

(C) the financing is nonrecourse as to the fiduciary financial institution's customer and is not otherwise guaranteed by such customer;

(D) the fiduciary financial institution agrees, in the applicable financing agreement or other written document, that the fiduciary financial institution is providing financing in a fiduciary capacity;

(E) the fiduciary financial institution agrees that such fiduciary financial institution will manage the collateral or assets underlying the financing in a fiduciary capacity; and

(2) acquire or invest in an alternative asset on behalf of and through a fidfin trust.

(b) The financing of a fidfin trust pursuant to subsection (a)(1) and (a)(2) shall be considered a fiduciary finance or fidfin transaction.

(c) If authorized or directed by the terms of an instrument, no fiduciary financial institution shall be deemed to have a conflict of interest, to have violated a duty to a fidfin trust or the beneficiaries thereof or to have engaged in self-dealing by entering into a fidfin transaction.

(d) The combination rules of K.S.A. 9-1104(f), and amendments thereto, shall be inapplicable to a fiduciary financial institution's fidfin transactions regardless of the identity of the fidfin trust beneficiary if:

(1) The borrower is a fidfin trust; and

(2) the fiduciary financial institution serves as trustee of the borrowing fidfin trust.

(e) A fiduciary financial institution that engages in a fidfin transaction shall be a fiduciary. Subject to the duties and standards of utmost care and loyalty that are associated with serving as a fiduciary, a fiduciary financial institution shall be deemed to be exercising fiduciary powers. All income generated by such fidfin transactions, including interest and

investment income, shall be deemed to be income derived from the exercise of such fiduciary powers.

(f) A fiduciary financial institution that engages in fidfin transactions shall distribute, cause to be distributed or otherwise facilitate the distribution of the required distribution amount as provided by this section. For purposes of this section, "required distribution amount" means cash, beneficial interests or other assets with a value equal to 2.5% of such fiduciary financial institution's fidfin transactions originated during the calendar year. Such transactions shall exclude any renewals, extensions of credit or accruals associated with transactions made in a prior calendar year, less any credit available to such fiduciary financial institution pursuant to K.S.A. 9-2302, and amendments thereto. The required distribution amount shall be distributed as follows:

(1) (A) To the department of commerce:

Required distribution amount	Percentage to department of commerce
$0 to $500,000	90%
$500,001 to $1,000,000	50%
Above $1,000,000	10%

(B) the amounts specified in subparagraph (A) shall apply to fiduciary financial institutions chartered prior to January 1, 2023. For fiduciary financial institutions chartered after such date, the department of commerce may publish one or more schedules in the Kansas register as the department of commerce deems reasonably necessary to facilitate economic growth and development in one or more economic growth zones. No such schedule shall be effective until after its publication in the Kansas register. The department of commerce shall timely submit any schedule published under this section to the commissioner. The commissioner shall provide a copy of such schedule to any applicant for a fiduciary financial institution charter prior to the issuance of such charter. A fiduciary financial institution shall be subject to the schedule in existence on the date such fiduciary financial institution's charter is issued and shall not be subject to any schedules published after such date;

(C) the department of commerce shall remit all distributions under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the technology-enabled fiduciary financial institutions development and expansion fund established in K.S.A. 9-2324, and amendments thereto; and

(2) the balance of the required distribution amount shall be distributed to one or more qualified charities as defined in K.S.A. 2025 Supp. 79-32,283 and amendments

thereto, as shall be selected by the fiduciary financial institution. An economic growth zone or qualified charity shall have no obligation to repay any distributions received under this act or to make any contributions to a fiduciary financial institution.

(g) The form, treatment and character of fidfin transactions under the laws of this state shall be respected for all purposes of this act notwithstanding the treatment or characterization of such transactions under generally accepted accounting principles or for tax purposes.

(h) A fiduciary financial institution shall disclose to a customer the information required by rules and regulations adopted by the commissioner pursuant to K.S.A. 9-2322, and amendments thereto, to ensure that the customer is informed regarding the nature of the customer's transactions with the fiduciary financial institution, taking into account the level of sophistication of the customer

History: L. 2021, ch. 80, § 11; L. 2022, ch. 55 § 8; July 1.

K.S.A. 9-2312. Authorized functions; parties engaged by an institution; services to residents of other states.

(a) Subject to the requirements of K.S.A. 9-2309(d), and amendments thereto, a fiduciary financial institution may:

(1) Employ attorneys, accountants, investment advisors, agents or other persons, even if they are affiliated or associated with the fiduciary financial institution, to advise or assist the fiduciary financial institution in the performance of such fiduciary financial institution's fidfin transactions, custodial services and trust business and act without independent investigation upon such recommendations;

(2) employ one or more agents to perform any act of fidfin transactions, custodial services or trust business;

(3) license internet-related services, including web services, software, mobile applications, technology-enabled platforms and processes to or from affiliates, third parties, other fiduciary financial institutions and their affiliates;

(4) license fidfin products and forms, as defined in K.S.A. 9-2321, and amendments thereto, to or from other fiduciary financial institutions and their affiliates;

(5) perform any services that a fiduciary financial institution is authorized to perform under the laws of this state on behalf of another fiduciary financial institution; and

(6) employ another fiduciary financial institution to perform any services that a fiduciary financial institution is authorized to perform under the laws of this state.

(b) A party engaged by a fiduciary financial institution pursuant to subsection (a) shall not be deemed to have engaged in fidfin transactions, custodial services or trust business in this state nor shall such party be deemed a trust service office of the fiduciary financial institution under K.S.A. 9-2108, and amendments thereto, or a trust facility or out-of-state facility under K.S.A. 9-2111, and amendments thereto, by reason of providing services to a fiduciary financial institution or licensing products, platforms, systems or processes to such fiduciary financial institution.

(c) A fiduciary financial institution that provides services or licenses fidfin products or forms pursuant to subsection (a) shall not be deemed a trust service office of the fiduciary financial institution that has acquired such services or licensed such products or forms.

(d) If a fiduciary financial institution offers its technology-enabled platform to provide fidfin services to residents of other states, neither the marketing, use and deployment of such platform by parties in other states nor the origination of fidfin services through such platform shall constitute an out-of-state trust facility under K.S.A. 9-2111, and amendments thereto, if the fiduciary financial institution complies with the provisions of K.S.A. 9-2309, and amendments thereto.

(e) A fiduciary financial institution shall provide notice to the commissioner pursuant to the provisions of K.S.A. 9-2103(a)(12), and amendments thereto, if such fiduciary financial institution engages a party pursuant to the provisions of subsection (a).

(f) Whenever a fiduciary financial institution causes to be performed for such fiduciary financial institution, by contract or otherwise, any service authorized under this act or the state banking code, such performance shall be subject to regulation and examination by the commissioner to the same extent as if such service was being performed by the fiduciary financial institution itself.

History: L. 2021, ch. 80, § 12; L. 2022, ch. 55 § 9; July 1.

K.S.A. 9-2313. Custodial services; requirements.

(a) A fiduciary financial institution may serve as a custodian, which may include serving as a qualified custodian, as defined by the United States securities and exchange commission in 17 C.F.R. § 275.206(4)-2, of an asset custody account. In performing custodial services under this section, a fiduciary financial institution shall:

(1) Implement all accounting, account statement, internal control, notice and other standards specified by applicable state or federal law and rules and regulations for custodial services;

(2) maintain information technology best practices relating to alternative assets held in custody;

(3) fully comply with applicable federal anti-money laundering, customer identification and beneficial ownership requirements; and

(4) take other actions necessary to comply with the requirements of this section.

(b) Alternative asset custody accounts over which a fiduciary financial institution serves as a custodian or qualified custodian are not depository liabilities or assets of the fiduciary financial institution.

(c) In performing custodial services under this section:

(1) A fiduciary financial institution shall be a fiduciary and shall be subject to the duties and standards of utmost care and loyalty that are associated with serving as a fiduciary;

(2) a fiduciary financial institution shall be deemed to be exercising fiduciary powers; and

(3) all income earned by a fiduciary financial institution and derived from performing custodial services shall be deemed to be income derived from the exercise of fiduciary powers.

History: L. 2021, ch. 80, § 13; July 1.

K.S.A. 9-2314. Trust advisor; rights, powers, immunities and liabilities.

Any instrument providing for a trust advisor may also provide such trust advisor with some, none or all of the rights, powers, privileges, benefits, immunities or authorities available to a trustee under Kansas law or under such instrument. Unless the instrument provides otherwise, a trust advisor has no greater liability to any person than would a trustee holding or benefiting from the rights, powers, privileges, benefits, immunities or authority provided or allowed by the instrument to such trust advisor.

History: L. 2021, ch. 80, § 14; July 1.

K.S.A. 9-2315. Excluded fiduciary; actions not liable for; relieved of certain duties; deemed administrative actions.

(a) An excluded fiduciary is not liable, either individually or as a fiduciary, for any of the following:

(1) Any loss that results from compliance with a direction of the trust advisor, including any loss from the trust advisor breaching fiduciary responsibilities or acting beyond the trust advisor's scope of authority; or

(2) any loss that results from a failure to take any action proposed by an excluded fiduciary that requires a prior authorization of the trust advisor if such excluded fiduciary timely sought but failed to obtain such authorization.

(b) Any excluded fiduciary is relieved from any obligation to review or evaluate any direction from a trust advisor to make distributions or to perform investment or suitability reviews, inquiries or investigations or to make recommendations or evaluations with respect to any investments to the extent the trust advisor had authority to direct the acquisition, disposition or retention of the investment. If the excluded fiduciary offers such recommendations or evaluations to the trust advisor or any investment person selected by the trust advisor, such action shall not constitute an undertaking by the excluded fiduciary to monitor or otherwise participate in actions within the scope of the advisor's authority or to constitute any duty to do so.

(c) Any excluded fiduciary is also relieved of any duty to communicate with or warn or apprise any beneficiary or third party concerning instances in which the excluded fiduciary would or might have exercised the excluded fiduciary's own discretion in a manner different from the manner directed by the trust advisor.

(d) Absent contrary provisions in the governing instrument, the actions of the excluded fiduciary, such as any communications with the trust advisor and others and carrying out, recording and reporting actions taken at the trust advisor's direction, pertaining to matters within the scope of authority of the trust advisor, shall be deemed to be administrative actions taken by the excluded fiduciary solely to allow the excluded fiduciary to perform those duties assigned to the excluded fiduciary under the governing instrument. Such administrative actions shall not constitute an undertaking by the excluded fiduciary to monitor, participate or otherwise take any fiduciary responsibility for actions within the scope of authority of the trust advisor.

(e) In any action against an excluded fiduciary pursuant to the provisions of this section, the burden to prove the matter by clear and convincing evidence is on the person seeking to hold the excluded fiduciary liable.

History: L. 2021, ch. 80, § 15; July 1.

K.S.A. 9-2316. Trust advisor; presumed fiduciary; jurisdiction; appointment.

(a) A trust advisor shall be presumed to be a fiduciary when exercising such trust advisor's authority under this act.

(b) By accepting an appointment to serve as a trust advisor of a fidfin trust or an alternative asset custody account that is subject to the laws of this state, the trust advisor submits to the jurisdiction of the courts of Kansas even if investment advisory agreements or other related agreements provide otherwise. The trust advisor may be made a party to any action or proceeding relating to a decision or action of the trust advisor.

(c) An instrument may appoint an individual, corporation or limited liability company as the trust advisor of a fidfin trust or an alternative asset custody account.

History: L. 2021, ch. 80, § 16; July 1.

K.S.A. 9-2317. Entity as trust advisor; requirements.

(a) If an entity is appointed as a trust advisor, the provisions of article 8 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall not apply to such entity, if the entity:

(1) Is established for the exclusive purpose of acting as a trust advisor;

(2) is acting in such capacity under an instrument that names a fiduciary financial institution as trustee or custodian;

(3) is not engaged in trust business with the general public as a public trust company or with any family as a private trust company;

(4) does not hold itself out as being in the business of acting as a fiduciary for hire as either a public or private trust company; and

(5) agrees to be subject to examination by the office of the state bank commissioner at the discretion of the commissioner.

(b) The governing documents of any such entity shall limit such entity's authorized activities to those of a trust advisor and shall further limit the performance of such functions to only fidfin trusts and alternative asset custody accounts. An entity complying with this section shall notify the commissioner in writing of its existence and capacity to act within 30 days of the establishment of such capacity.

History: L. 2021, ch. 80, § 17; L. 2022, ch. 55 § 10; July 1.

K.S.A. 9-2318. Indemnification of trust advisor; exceptions.

An instrument may relieve and indemnify a trust advisor and a fiduciary financial institution that serves as trustee of a fidfin trust or alternative asset custody account from liability for a breach of fiduciary duty. Any such provision is unenforceable to the extent that it relieves the trust advisor or fiduciary financial institution from liability for a breach of fiduciary duty committed:

(a) In bad faith;

(b) intentionally; or

(c) with reckless indifference to the interest of a beneficiary.

History: L. 2021, ch. 80, § 18; L. 2022, ch. 55 § 11; July 1.

K.S.A. 9-2319. Trustee compensation.

(a) Notwithstanding the provisions of K.S.A. 58a-708, and amendments thereto, if the terms of a fidfin trust specify the trustee's compensation, such trustee is entitled to be compensated as provided in such terms, except that compensation may be increased or decreased upon approval by the trustee and by unanimous consent of the beneficiaries.

(b) If the terms of a fidfin trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, except that the court may allow more compensation if:

(1) The duties of the trustee are substantially different from those contemplated when the trust was created; or

(2) the compensation specified by the terms of the trust would be unreasonably low.

History: L. 2021, ch. 80, § 19; July 1.

K.S.A. 9-2320. Privacy; protection in court proceedings; exception.

The privacy of those who have established a fidfin trust or alternative asset custody account shall be protected in any court proceeding concerning such trust if the acting trustee, custodian, trustor or any beneficiary so petition the court. Upon the filing of such a petition, the instrument, inventory, statement filed by any trustee or custodian, annual verified report of the trustee or custodian, final report of the trustee or custodian and all petitions relevant to trust administration and all court orders thereon shall be sealed upon filing and shall not be made a part of the public record of the proceeding, except that such petition shall be available to the court, the trustor, the trustee, the custodian, any beneficiary, their attorneys and to such other interested persons as the court may order upon a showing of need.

History: L. 2021, ch. 80, § 20; July 1.

K.S.A. 9-2321. Forms; definition; request for review; review not approval or endorsement.

(a) For purposes of this section, "form" includes:

(1) An instrument as defined in K.S.A. 9-2301, and amendments thereto;

(2) a transaction agreement between a fiduciary financial institution and a fidfin trust;

(3) any other documents executed by a fiduciary financial institution or a fidfin trust in connection with a fidfin transaction; and

(4) any document executed by a fiduciary financial institution or a customer in connection with the creation and management of an alternative asset custody account.

(b) The commissioner may, upon a written request from a fiduciary financial institution prior to a form submission, offer to review a form and reply with informational comments only. Such informational comments shall not, in any manner, constitute approval or endorsement of such form, and the fiduciary financial institution shall not represent that such form has been approved by the office of the state bank commissioner.

History: L. 2021, ch. 80, § 21; July 1.

K.S.A. 9-2322. Adoption of rules and regulations by the commissioner; contracts for technical assistance.

(a) Pursuant to K.S.A. 9-1713, and amendments thereto, the commissioner shall adopt rules and regulations on or before January 1, 2022, as are necessary to administer this act.

(b) The office of the state bank commissioner may enter into contracts for technical assistance and professional services as are necessary to administer the provisions of this act and to meet the deadline for the adoption of rules and regulations provided by this section. Such contracts shall be exempt from the requirements of K.S.A. 75-3739, 75-37,102 and 75-37,132, and amendments thereto, or any other statute relating to the procurement of such services.

History: L. 2021, ch. 80, § 22; July 1.

K.S.A. 9-2323. No maximum interest rate or charge.

Notwithstanding the provisions of chapter 16 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, or any other statute, there is no maximum interest rate or charge or usury rate restriction between or among a fiduciary financial institution and a fidfin trust if the interest rate or charge is established by written agreement. A "written agreement" means a document in writing, whether in physical or electronic form, in which the parties have demonstrated their agreement to the terms and conditions of an extension of credit, including the rate of interest.

History: L. 2021, ch. 80, § 23; July 1.

K.S.A. 9-2324. Technology-enabled fiduciary financial institutions development and expansion fund; administration by secretary of commerce; purpose; interest earnings.

(a) There is hereby established in the state treasury the technology-enabled fiduciary financial institutions development and expansion fund to be administered by the secretary of commerce. Expenditures from the fund shall be for the purposes of distributing to economic growth zones for the purposes of economic development projects or opportunities and promoting and facilitating the development, growth and expansion of fiduciary financial institutions, fidfin activities and custodial services in the state and to locate such fiduciary financial institutions' office space in an economic growth zone as defined in K.S.A. 9-2301, and amendments thereto. All expenditures from the technology-

enabled fiduciary financial institutions development and expansion fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the secretary's designee.

(b) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the technology-enabled fiduciary financial institutions development and expansion fund interest earnings based on:

(1) The average daily balance of moneys in the technology-enabled fiduciary financial institutions development and expansion fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

History: L. 2021, ch. 80, § 24; July 1.

K.S.A. 9-2325. Pilot program; requirements; fees; distributions; conversion to full charter; report to certain committees of the legislature.

(a) On July 1, 2021, the commissioner shall:

(1) Grant a conditional fiduciary financial institution charter to the Beneficient company upon the Beneficient company:

(A) Filing an application with the commissioner;

(B) satisfying the requirements of K.S.A. 9-2302(c)(1) through (5), and amendments thereto;

(C) satisfying the requirements of K.S.A. 9-2302(f), and amendments thereto; and

(D) satisfying the capital requirements imposed under K.S.A. 9-2305, and amendments thereto; and

(2) designate a community within Harvey county, as selected by Beneficient fiduciary financial institution, as the first economic growth zone.

(b) On July 1, 2021, the commissioner shall establish a fidfin fiduciary financial institution pilot program that:

(1) Includes the Beneficient company as a participant in such pilot program;

(2) assesses the Beneficient company an initial fee of $1,000,000 in lieu of the initial fee provided in K.S.A. 9-2303, and amendments thereto; and

(3) imposes a requirement for the Beneficient company to distribute, cause to be distributed or otherwise facilitate a distribution of cash, beneficial interests or other assets having an aggregate value of $9,000,000 in accordance with the requirements of K.S.A. 9-2302(i), and amendments thereto, and such amount shall be construed as the applicable distribution amount for purposes of K.S.A. 9-2302, and amendments thereto.

(c) Except as provided by subsection (d), upon issuance of the conditional fiduciary financial institution charter, the Beneficient company shall be subject to all requirements imposed on fiduciary financial institutions under this act but may not commence fidfin transactions, custodial services or trust business in this state until the earlier of:

(1) December 31, 2021; or

(2) the date the commissioner adopts rules and regulations pursuant to K.S.A. 9-2322, and amendments thereto.

(d) (1) On December 31, 2021, the conditional charter granted under this section to the Beneficient company shall be converted to a full fiduciary financial institution charter.

(2) The commissioner may extend the period that the Beneficient company may not commence fidfin transactions, custodial services or trust business in this state for a period not to exceed six months from the date specified in subsection (c) if the commissioner submits a report to the senate financial institutions and insurance committee and to the house of representatives financial institutions and rural development committee identifying the specific reasons for which such extension is necessary. Such report shall be submitted on or before January 10, 2022. Notwithstanding the provisions of this subsection, the Beneficient company may satisfy the applicable distribution requirement of K.S.A. 9-2302(i), and amendments thereto, and the required distribution amount in K.S.A. 2021 9-2311(f), and amendments thereto, by placing assets in escrow with one or more qualified charities, except that such funds shall be released when the Beneficient company is permitted to commence fidfin transactions, custodial services or trust business.

(e) On or before January 10, 2022, the office of the state bank commissioner shall provide a report to the house of representatives financial institutions and rural development committee and the senate financial institutions and insurance committee updating such committees on the progress of such pilot program. Such report shall include recommendations from the office of the state bank commissioner for any legislation necessary to implement the provisions of this act.

History: L. 2021, ch. 80, § 25; L. 2022, ch. 4 § 1; March 10.

K.S.A. 9-2326. Trust interest not void or invalid by any common law rule.

Notwithstanding the provisions of K.S.A. 59-3401, and amendments thereto, no interest held in a fidfin trust shall be void or invalid by reason of any common law rule, including, but not limited to, the rule against perpetuities or rule limiting the duration of trusts.

History: L. 2021, ch. 80, § 26; July 1.

K.S.A. 9-2327. Tax classification as determined under the federal internal revenue code.

Notwithstanding the provisions of K.S.A. 17-2035, and amendments thereto, for purposes of any tax imposed by the state or any instrumentality, agency or political subdivision of this state, a business trust that is used in connection with fidfin transactions or custodial services, as defined in K.S.A. 9-2301, and amendments thereto, and for which a fiduciary financial institution, as defined in K.S.A. 9-2301, and amendments thereto, serves as trustee shall be classified as a corporation, an association, a partnership, a trust or otherwise, as shall be determined under the federal internal revenue code.

History: L. 2021, ch. 80, § 27; July 1.

2026 HB 2591 New Section 13. Receivership in the event of insolvency or bankruptcy.

(a) The office of the state bank commissioner or any other state agency shall not become a receiver for any technology-enabled fiduciary financial institution that becomes insolvent or declares bankruptcy. For purposes of this section, "state agency" means the same as defined in K.S.A. 75-3701, and amendments thereto.

(b) A fiduciary financial institution shall be deemed to be insolvent if the:

(1) Actual cash market value of such fiduciary financial institution’s assets is insufficient to pay such fiduciary financial institution’s creditor liabilities; or

(2) fiduciary financial institution is unable to meet the demands of such fiduciary financial institution's creditors in the usual and customary manner.

(c) The provisions of this section shall be a part of and supplemental to the technology-enabled fiduciary financial institutions act.

History: 2026 HB 2591 New Section 13; July 1.