



Office of the State Bank Commissioner

All Bank Mailing

Memo RM97-3

TO: All State Chartered Banks & Trust Companies
FROM: W. Newton Male, Bank Commissioner
DATE: July 17, 1997

A. Revocation of Special Order 1990-1.

Enclosed you will find a Notice of Revocation for Special Order 1990-1. It has been determined that state chartered banks have authority under the incidental powers provision in K.S.A. 9-1101 to sell both fixed and variable rate annuities. Therefore, the Special Order is no longer necessary.

B. Approval of Officer Compensation by an Institution's Board of Directors.

Enclosed is a memorandum concerning proper documentation and approval of officers' compensation.

C. Comprehensive Other Real Estate Policy and Guidelines.

Enclosed is a memorandum outlining the guidelines and policies of this office concerning other real estate ("ORE"). Please note this policy supercedes some previous issuances which should be discarded to avoid confusion.

D. New State Ethics Rules Applicable to Bank Examiners.

The 1997 Kansas Legislature enacted House Bill 2064, which, among other things, implements new rules relating to state employees accepting gifts and discounted or free meals. These new rules are applicable to all Office of the State Bank Commissioner (OSBC) staff, and with a few exceptions, generally prohibit examiners from requesting or accepting any gift, economic opportunity, or meal, regardless of value, that is conveyed because of the examiner's employment with the state. Although effective for only a short period of time, there have been numerous questions raised and opinions issued by the Kansas Commission on Governmental Standards and Conduct regarding the scope of the new law. Because of this uncertainty, and because the potential penalties for violation of the rules can include termination and civil fines up to \$15,000 per violation, the OSBC has adopted a conservative policy regarding employee conduct. Therefore, all employees of the department will no longer be permitted to accept meals or other free or discounted items compliments of the bank or an individual bank employee. This policy does not prohibit the examiners from accompanying bank personnel to meals, it only requires the examiners to pay their own bill. Snacks such as coffee, soft drinks, and snack foods are specifically excepted from the new statute, so if routinely available in the bank, examiner acceptance of these types of items are not prohibited by the statute. It would be very helpful if you could please make all bank personnel aware of the new law and the OSBC's policy in this regard.

E. Record Retention.

It has come to our attention that a provision of this office's record retention regulation, K.A.R. 17-15-1, should be clarified in light of current banking practices. Under the heading "CHECKING ACCOUNTS-INDIVIDUAL AND FIRMS", the following retention period is listed:

"Checks paid (microfilm copy-front and back).....5 years"

This 5-year retention period is sufficient if a bank is still returning canceled checks to its customers. However, if a bank is no longer sending canceled checks back to its customers, the bank should retain copies of checks paid for seven years, rather than five years, to comply with the requirements in K.S.A. 84-4-406. This statute, which is part of the Uniform Commercial Code, states that a bank must either return items paid to the customer or provide a statement of the account sufficiently identifying the items. If the bank chooses not to return the items to the customer, subsection (b) of the statute requires the bank to retain the items, or if the items are destroyed, to maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt. A copy of the statute is attached for your review.

For Attachments, see Memos RM97-4, RM97-5, and RM97-6