



Office of the State Bank Commissioner

Regulatory Mailing

RM 99-1

Note: While this is coded as a regulatory mailing, it was not sent to all banks, but may be distributed upon request.

TO: Judi Stork, Acting Bank Commissioner
FROM: Ezra Ginzburg, Staff Attorney
DATE: February 9, 1999; revised October 25, 1999
RE: Year 2000 Preparedness

You recently received a question from a bank concerning whether there is authority in state law for a bank to close temporarily in order to respond to a year 2000 disruption. You asked if I would review this and provide guidance. I believe that K.S.A. 9-514 through K.S.A. 9-518 allow such closures in an emergency. Those statutes are discussed below.

K.S.A. 9-515 states: Whenever the commissioner is of the opinion that an emergency exists, or is impending, in this state or in any part of this state, he or she may, by proclamation, authorize banks located in the affected area to close their offices. In addition, if the commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular bank or banks, but not banks located in the area generally, he or she may authorize the particular bank or banks to close. The bank or banks so closed shall remain closed until the commissioner proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that the bank theretofore closed because of emergency, should reopen, and, in either event, for such further time thereafter as may reasonably be required to reopen as determined by the commissioner.

K.S.A. 9-516(a) states: Whenever the officers of a bank are of the opinion that an emergency exists or is impending, which affects, or may affect, a bank's offices, they shall have the authority, in the reasonable and proper exercise of their discretion, to determine not to open such offices on any business or banking day or, if having opened, to close such offices during the continuation of such emergency. The offices so closed shall remain closed until such time as the officers determine that the emergency has ended, and for such further time as may reasonably be required to reopen; however, in no case shall such offices remain closed for more than forty-eight (48) consecutive hours, excluding other legal holidays, without requesting and obtaining the approval of the commissioner.

K.S.A. 9-514 defines emergency as any condition or occurrence which may interfere physically with the conduct of normal business operations at the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property or both.... It appears that a year 2000 disruption in a state-chartered bank's operations would fall within this definition of emergency.

In summary, state law does provide the necessary authority for state banks to close temporarily if an emergency exists. K.S.A. 9-516(a) would allow bank officers to close the bank for at least forty-eight (48) hours to deal with the disruption. If the officers choose to close the bank under K.S.A. 9-516(a), K.S.A. 9-517 requires a state bank to give notice of its actions to the commissioner as promptly as conditions will permit. If the emergency could not be dealt with in that 48-hour time period, the bank officers could request additional time to close the bank from the commissioner. In addition, if the commissioner forms the opinion that a year 2000 emergency exists at a particular bank, the commissioner may authorize that particular bank to temporarily close to respond to that emergency pursuant to K.S.A. 9-515.