



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

October 3, 1975

ATTORNEY GENERAL OPINION NO. 75-386

Oliver J. Estes, Commissioner
Savings and Loan Department
State Office Building
Topeka, Kansas 66612

Re: Corporations--Savings and Loan Code: Incorporation
and Organization---Change of Name--Corporate Name
May Not Be Same Or Nearly Same As That Of Existing
Corporation

Synopsis: The restrictions applicable to the name of a
savings and loan association contained in K.S.A.
17-5222, 17-5223, and of particular relevance
here, K.S.A. 17-5224, continue to apply to an
existing savings and loan association which seeks
a change of name pursuant to K.S.A. 17-5226 and
K.S.A. 17-5227.

* * *

Dear Commissioner Estes:

You have requested an opinion from this office concerning whether the restriction of K.S.A. 17-5224 relative to the similarity of names between an existing and proposed savings and loan association apply to an already existing association which seeks to secure a change of name pursuant to K.S.A. 17-5224 and 17-5227 similar to that of an already existing savings and loan association.

The relevant statute, K.S.A. 17-5224 provides in pertinent part:

"No certificate of incorporation of a proposed association having the same name as a corporation authorized to do business under the law of this state or a name so nearly resembling it as to be calculated to deceive, shall be issued by the commissioner, except an association formed by the

Oliver J. Estes
Page Two
October 3, 1975

reincorporation, reorganization or consolidation of other association, or upon the sale of the property or franchises of an association."

Relative to the name change of an existing association, K.S.A. 17-5226 provides:

"The name of the location of the home office of any association fixed in the certificate of incorporation may be changed in the following manner: The proposed new name or the new location of the home office of the association shall be approved by a resolution adopted by a majority of the entire board of directors. Immediately preceding application to the commissioner for approval, notice of intention to change the name or the location of the home office, signed by two officers, shall be published once a week for two successive weeks, in a newspaper, of general circulation in the county in which the home office is located; and a copy of such notice shall be displayed during such consecutive two weeks' period in a conspicuous place in the home office of the association."

K.S.A. 17-5227 further amplifies this procedure by stating:

"Five copies of an application to the commissioner for approval shall be signed by two officers of the association, acknowledge before an officer competent to take acknowledgements of deed, and filed with the commissioner. Upon receipt of application for change of name the commissioner shall notify each association chartered to do business in the applicant's county of such application, by registered mail. Such notification shall set a time at which a yearling will be held before the commissioner. The commissioner shall inquire into the advisability of such change. After the hearing the commissioner shall promptly approve or disapprove the change. If approved the commissioner shall issue a certificate of approval or such change."
[Emphasis added].

Construing these statutes in pari materia, that is, related statutes dealing with the same subject matter are resorted to

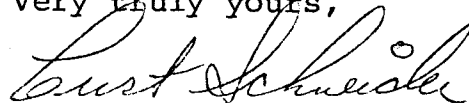
Oliver J. Estes
Page Three
October 3, 1975

as aids in the construction of a particular statute, it is the view of this office that the restrictions applicable to the name of a savings and loan association contained in K.S.A. 17-5222, 17-5223, and of particular relevance here, K.S.A. 17-5224, continue to apply to an existing savings and loan association which seeks a change of name pursuant to K.S.A. 17-5226 and K.S.A. 17-5227. Of particular impact in this decision is the above emphasized portion of this latter statute. The savings and loan commissioner is required by this statute to determine the advisability of any requested name change and, thereafter, promptly approve or disapprove it. If it were concluded that K.S.A. 17-5222, K.S.A. 17-5223, and K.S.A. 17-5224, did not apply to change of name situations, the purpose or evil to be remedied could easily be circumvented and the purpose of this statute defeated by simply incorporating under one name and then seek a name change which conflicts with the spirit of K.S.A. 17-5224. Furthermore, there would be no statutory basis for the Commission to disapprove any request for a name change if these same restrictions did not apply. Finally, it must be presumed from a literal reading of K.S.A. 17-5224 that it seeks to eliminate one association from capitalizing on the goodwill accumulated by another association with a name of such similarity that the general public and the potential investor could possibly be misled. This intent could not effectively be accomplished unless the prohibition found in K.S.A. 17-5224 applied to the name change procedure.

It should be admonished that this opinion in no way intimates our position relative to the facts which have prompted this opinion request. The statute delegates the responsibility of making this decision upon the savings and loan commissioner whether the proposed name change conflicts with the restriction of K.S.A. 17-5224 or comes within the exception is not decided by this opinion.

With this in mind, it is the opinion of this office that the restrictions of K.S.A. 17-5224 apply to a request for approval of a proposed name change pursuant to K.S.A. 17-5226

Very truly yours,



CURT T. SCHNEIDER
ATTORNEY GENERAL

CTS:HTW:bv