



STATE OF KANSAS

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September 13, 1983

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ATTORNEY GENERAL OPINION NO. 83- 141

Eugene C. Hegarty
State Bank Commissioner
700 Jackson, Suite 300
Topeka, Kansas 66603

Re: Trust Companies and Business Trusts -- Change of
Trust Company's Location -- Approval of Bank
Board; When Not Required

Synopsis: Attorney General Opinion No. 81-189 concluded
that those provisions of K.S.A. 17-2015 which
require the state banking board's approval of a
trust company's change in location are applicable
to a trust company wherein moneys are currently
on deposit, even if no new accounts are being
opened. Accordingly, if a trust company has
closed out all accounts, so that no money is be-
ing held on deposit, it is not subject to the
provisions of K.S.A. 17-2015 which require state
approval before a change in location can be made.
Cited herein: K.S.A. 17-2015.

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Dear Commissioner Hegarty:

As Bank Commissioner for the State of Kansas, you request
our opinion concerning a statute, K.S.A. 17-2015, which is
contained in the laws governing trust companies. Your in-
quiry is essentially a follow-up to one made by a previous
bank commissioner, Roy P. Britton, in 1981. He inquired
about the effect of the statute on a Kansas trust company
which desired to change its place of business from one city
to another. In that the conclusion reached in our response
(Attorney General Opinion No. 81-189) was based on circum-
stances which have now changed, you wish to know if the
statute's provisions are still applicable.

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Specifically, the prior opinion (a copy of which is attached) was based on a construction of the phrase "receives or is receiving deposits" which is found in K.S.A. 17-2015 thusly:

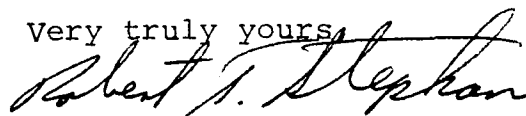
"No trust company which receives or is receiving deposits shall move or change its place of business from one city or township to another unless it first shall make and file with the state banking board an application so to do nor until such board shall give its written approval of such move or change." (Emphasis added.)

The opinion hinged on the question of whether the trust company continued to receive deposits up to the time it desired to change locations, and not whether new accounts were actually opened. In that the company's records showed that existing deposits continued to be added to and reinvested, the fact that no new additional accounts were opened was not enough to avoid the conclusion that deposits were being received.

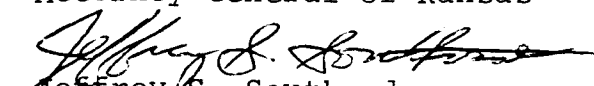
As you explain the current situation, the trust company closed out all of its existing accounts on January 15, 1982, and opened no new accounts thereafter. On February 19, 1983, the company moved its operations to Overland Park, Kansas, without the prior approval of the state banking board. In our opinion, such prior approval was not required, since the statute, as noted in Attorney General Opinion No. 81-189, does not govern movements of trust companies which are not receiving deposits. We note that no investors were jeopardized by the move, for none remained who had deposits with the trust company. However, while nothing prevents the trust company from accepting new deposits when it relocates, once it does so it again becomes subject to the provisions of K.S.A. 17-2015, and cannot further move without board approval.

In conclusion, Attorney General Opinion No. 81-189 concluded that those provisions of K.S.A. 17-2015 which require the state banking board's approval of a trust company's change in location are applicable to a trust company wherein moneys are currently on deposit, even if no new accounts are being opened. Accordingly, if a trust company has closed out all accounts, so that no money is being held on deposit, it is not subject to the provisions of K.S.A. 17-2015 which require state approval before a change in location can be made.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Jeffrey S. Southard
Assistant Attorney General

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