

KANSAS WATER APPROPRIATION ACT (KANSAS WATER BANKING)

**(Excerpted)
July, 2017**

K.S.A. 82a-763. Water bank authority; deposits and leases; safe deposit accounts; restrictions.

(a) A water bank shall be authorized to enter into contracts with holders of water rights for deposit in the bank of all or a portion of any water right from a hydrologic unit within the bank boundary, subject to the following:

- (1) The bank shall accept for deposit only a water right, or portion of a water right, that has been determined to be a bankable water right under K.S.A. 2017 Supp. 82a-764, and amendments thereto;
- (2) a deposit of a groundwater water right shall be for a period of not more than five years;
- (3) a deposit shall be subject to such terms and conditions as provided by the contract between the bank and the depositor, including penalty provisions for breach of any contract conditions; and
- (4) a deposit shall be subject to such terms and conditions, and such approval by the chief engineer, as provided by rules and regulations of the chief engineer.

(b) A water bank shall be authorized to lease water from any water right, or portion of a water right, that has been deposited in the bank, subject to the following:

- (1) Any water leased must be used within the bank boundary and in the same hydrologic unit from which the water right authorizing diversion of the water is deposited;
- (2) use of leased water shall be subject to all provisions of the Kansas water appropriation act, including, but not limited to, all requirements relating to term permits;
- (3) a lease shall be subject to such terms and conditions as provided by the contract between the bank and the lessor, including penalty provisions for breach of any contract conditions;
- (4) a lease shall be subject to such terms and conditions, and such approval by the chief engineer, as provided by rules and regulations of the chief engineer; and
- (5) a water bank's decision of whether or not to lease water shall not be based on the proposed use of the water.

(c) A water bank shall provide safe deposit accounts where a holder of a water right may place unused water from the water right for future withdrawal, subject to the following:

- (1) A water right holder shall place in a safe deposit account only water from a water

right that has been determined to be a bankable water right under K.S.A. 2017 Supp. 82a-764, and amendments thereto;

(2) only water that was unused in the immediate past calendar year may be placed in a safe deposit account and the amount that shall be placed in such account shall be less than the total amount of unused water from the bankable water right in that year;

(3) only water from one water right shall be placed in a safe deposit account and water from a water right shall not be placed in more than one safe deposit account, except that water from linked water rights may be placed in a single safe deposit account;

(4) each calendar year that water remains in a safe deposit account, the amount of water held in the account shall decrease by a percentage established by the charter of the bank but in no case less than 10% annually of all amounts placed in the account;

(5) the total amount of water accumulated in a safe deposit account shall not exceed the maximum annual quantity authorized to be diverted under the water right or the aggregate maximum quantity authorized to be diverted under all linked water rights from which water is deposited in the account;

(6) use of water withdrawn from a safe deposit account shall be subject to all provisions of the Kansas water appropriation act, including, but not limited to, all requirements relating to term permits;

(7) a safe deposit account shall be subject to such terms and conditions as provided by the contract between the bank and the account holder, including penalty provisions for breach of any contract conditions;

(8) a safe deposit account shall be subject to such terms and conditions, and such approval by the chief engineer, as provided by rules and regulations of the chief engineer; and

(9) the operation of safe deposit accounts by the bank shall not result in an increase in the amount of net consumptive use of water in any hydrologic unit, computed on a long-term rolling average compared to a representative past period.

(d) A water bank may provide services to facilitate the sale or lease of water rights.

(e) A water bank shall not own, buy or sell water rights. (**History:** L. 2001, ch. 160, § 2; July 1.)