

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Jeff Longbine at 9:30 am on Thursday, March 12, 2015, 546-S of the Capitol.

All members were present

Committee staff present:

Ellen Martinez, Kansas Legislative Committee Assistant
Melissa Calderwood-Renick, Legislative Research Department
Whitney Howard, Legislative Research Department
Eileen Ma, Office of Revisor of Statutes

Conferees appearing before the Committee:

Jeff Spahr, Staff Attorney, Office of the State Bank Commissioner
Whitney Damron, on behalf of Fiserv Solutions, Inc.
Jennifer Cook, Deputy Commissioner, Division of Consumer and Mortgage Lending, Office of the State Bank Commissioner
Kathy Taylor, Senior Vice President-General Counsel, Kansas Bankers Association

Others in attendance:

[See Attached List](#)

Hearing on: HB2216 — Kansas money transmitter act.

Senator Longbine opened the hearing on **HB 2216**. Eileen Ma, staff revisor, gave a brief overview of the bill.

Jeff Spahr, staff attorney with the Office of the State Bank Commissioner testified in support of the bill. This bill amends the Kansas Money Transmitter Act in three major ways. It seeks to clarify the licensee-agent relationship and ensure that any agent of a licensee is a "legitimate" agent and not a company seeking to avoid licensure itself. Some newer internet companies are exploiting this ability to be appointed as another licensee's agent in order to run a separate money transmitter business and avoid licensure themselves - known as a "rent a license" scheme.

The bill also seeks to update the definition of outstanding payments to keep up with the changing technology. Under the Money Transmitter Act, every licensed company is required to keep on hand an adequate amount of permissible investments to cover 100% of the money that is currently being transmitted by it. The bill will modify the wording used to describe the "outstanding" liabilities for which a licensee must maintain adequate permissible investments.

HB 2216 also proposes to provide more flexibility for the Act's surety requirements. Under current law, a licensee must keep a minimum of \$200,000 on deposit at a state bank to act as a surety in case it is unable to meet its financial obligations. This bond amount may be increased up to a maximum of \$500,000 based upon the impaired financial condition of the licensee. The bill would increase the maximum up to \$1 million. It would allow the OSBC to increase the amount based upon the additional

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criterion of the increased volume amount of money transmission business by the entity in the state. Therefore, if an entity is performing a high volume of business in Kansas, the surety amount could be increased to ensure that consumers are protected in the event of default by the licensed company.

The bill also would require that any financial statements filed with the commissioner be in accordance with US GAPP, provides explicit authority for the OSBC to require entities to retain certain records necessary to verify compliance with the Act, and lastly it provides additional justification for the OSBC to take administrative action against a licensed entity for refusal to provide required information.

[\(Attachment 1\)](#)

Whitney Damron appeared on behalf of Fiserv Solutions, Inc., headquartered in Brookfield, Wisconsin, to propose an amendment to **HB 2216**. This amendment would exempt from the provisions of this act: banks, building and loan associations, savings and loan associations, savings banks or credit unions, or a service provider that by agreement provides for the receipt and delivery of funds, network access, processing, clearance or settlement services in support of money transmission activities on behalf of any entities in this section, organized under the laws of and subject to the supervision of this state, another state or the United States. [\(Attachment 2\)](#)

There being no further testimony, Senator Longbine advised the Committee of his intention to work the bill on Tuesday, March 17, and he closed the hearing at 10:00 A.M.

Hearing on: HB2258 — Amending the Kansas mortgage business act.

Senator Longbine opened the hearing on **HB 2258**. Eileen Ma, staff revisor, gave a brief overview of the bill.

Jennifer Cook, Deputy Commissioner, Office of State Bank Commissioner, testified in support of the bill. **HB 2258** would amend the Kansas Mortgage Business Act by changing the definition of "mortgage loan" to exclude companies that place liens of contractors from the licensing requirements of the KMBA. The bill also corrects an incorrect reference to the federal Truth-in Lending Act and makes other technical corrections. The intent of this bill is to prevent an unnecessary (and unintended licensing) requirement on these companies that are not otherwise engaged in mortgage business.

Mortgage companies that conduct business with Kansas consumers must be licensed with the OSBC through the NMLS, pay a \$400 application fee and an annual \$300 renewal fee. Each mortgage company must employ at least one loan originator. Loan originators are also required to be licensed with the OSBC through the NMLS.

HB 2258 clarifies that companies that place a lien of contractors on a property are exempt from the definition of a mortgage loan. It exempts them from mortgage company and loan originator licensing requirements. This bill only applies the exemption to liens of contractors. The goal is to prevent a company that may place a contractor's lien on a property, but does not otherwise engage in mortgage

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activity , from duplicative and unintended licensing requirements. ([Attachment 3](#))

There being no further testimony, Senator Longbine closed the hearing at 10:05 A.M.

Hearing on: HB2352 — Financial institutions and remote service units.

Senator Longbine opened the hearing on **HB 2352**. Eileen Ma, staff revisor, gave a brief overview of the bill.

Kathy Taylor, Senior Vice President-General Counsel for the Kansas Bankers Association, testified in support of the bill.

HB 2352 would modernize the the state banking code by recognizing the advent of interactive teller machines (ITMs) in today's financial marketplace. ITMs, which like automated teller machines (ATMs) can be strategically placed to more conveniently serve bank customers, are remote service units that are activated by individuals presenting personal identifications through the use of a telephone or televideo device that allows contact with bank personnel.

The KBA has been contacted by two of their state-chartered member banks inquiring about their desire to utilize ITMs. Those calls prompted the request for the introduction of **HB 2352**. ([Attachment 4](#))

There being no further testimony, Senator Longbine closed the hearing at 10:10 A.M.

Senator Longbine advised the Committee of his intention to work these bills on Tuesday, March 17th. There being no further business, the meeting was adjourned.