M I N U T E S

SPECIAL COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

September 13-14, 1977
Room 528, State House

Members Present

Senator Neil Arasmith, Chairman
Representative Jim Holderman, Vice-Chairman
Senator John Crofoot
Senator Paul Feleciano, Jr.
Senator Larry Rogers
Representative Lloyd Buzzi
Representative Herman Dillon
Representative Charles Laird
Representative Mike Meacham
Representative John Reimer
Representative Marjorie Thomson

Staff Present

Bill Wolff, Kansas Legislative Research Department
Bill Edds, Revisor of Statutes Office

Others Present

Paul Lewis, Kansas Bankers Association
Earl J. Irish, Consumer Credit Commission
Charles Henson, Kansas Bankers Association
L.M. "Bud" Cornish, Kansas Life Association
Marvin Umholtz, Kansas Credit Union League
Donald Miller, Credit Bureau of Topeka, Inc.
Ron Todd, Assistant Commissioner of Insurance
Walt Scott, Associatiated Credit Bureaus of Kansas
Jim Turner, Kansas Savings and Loan League
James Lowther, Representative
Bill Patterson, Kansas Mutual Insurance Companies
Dan Scott, Kansas Mutual Insurance Companies
Robert Adams, American Investers Life
Dick Duhl, Farmers Alliance Mutual Insurance
Bill Powers, Farmers Alliance Mutual Insurance
Sara Miller, Security Benefit Life
Mike Hrynewich, Kansas Savings and Loan League
Cordley Brown, Consumer Credit Commission
Lavelle Frazier, Credit Union Administrator
Jim Holt, Kansas Credit Union League
Guy Winkler, Kansas Credit Union League

September 13
Morning Session

The meeting was called to order by Chairman Neil Arasmith at 10:00 a.m. The minutes of the last meeting were reviewed and the omission of the word "effect" on page one was noted. Vice-Chairman Holderman moved and Senator Crofoot seconded that the minutes be approved. The motion carried.

Staff reviewed a bill draft which the Committee had requested on Proposal No. 13 - Group Health Insurance Contracts (Attachment A). The Revisor explained that the only change in this draft was to incorporate the word "individual" to carry out the Committee desire to mandate the offer of coverage for drug abuse, alcoholism, and mental or nervous conditions in individual as well as in group contracts.

Senator Crofoot expressed the concern that since only those who needed the coverage would purchase it, the premium rates would be quite high - perhaps prohibitive. Representative Reimer said that while he objected to the inclusion of the word "individual" originally, he now preferred to recommend the draft as presented and take further testimony on the bill during the 1978 Session.

Senator Feleciano moved, and Representative Thomson seconded, that the draft be adopted and recommended to the 1978 Legislature. The motion carried. Staff reminded the Committee that the Committee Report on Proposal No. 13 had been adopted at an earlier meeting.

Proposal No. 11 - Usury Rates for Savings and Loan Associations. After considerable discussion on the effect of the Uniform Consumer Credit Code (16a-1-301(14b)) upon real estate transactions, the Committee reviewed the bill draft requested on Proposal No. 11 (Attachment B). Staff explained that the draft raises the usury rate from the present 10 percent to 11 percent on loans secured by a first real estate mortgage, including those for multi-family dwellings and other commercial purposes.

Senator Feleciano moved, and Representative Meacham seconded, that the draft be adopted and recommended to the 1978 Legislature. The motion carried. The staff then reviewed a draft Committee Report on Proposal No. 11 (Attachment C). Upon changing the list of Committee members to reflect that Larry Rogers is "Senator" rather than "Representative" Rogers, the Committee Report was adopted.

Proposal No. 10 - Privacy of Financial Records. Staff indicated that certain relevant chapters from the Report of the Privacy Protection Study Commission had been copied and placed in the notebooks. Vice-Chairman Holderman informed the Committee that the House Committee on Commercial and Financial Institutions had held hearings on H.B. 2480 during the Session. He said that at that time, the Kansas Bankers Association suggested numerous changes in the bill.

The meeting was recessed until 1:30 p.m.

Afternoon Session

The meeting was reconvened at 1:30 p.m. by Chairman Arasmith and hearings began on Proposal No. 10 - Privacy of Financial Records.

Mr. Charles Henson, Counsel for the Kansas Bankers Association, appeared and offered some general observations. The Kansas Bankers Association generally supports the idea of privacy legislation, however, the custom has been and is to treat customers' records as confidential. Mr. Henson said that banks frequently receive requests for customers' records. He noted that there has been varying court decisions on the ownership of financial records, i.e., the U.S. Supreme Court has ruled that bank records are not the property of the customer, while the California Supreme Court has held the opposite opinion. The banks would welcome some resolution to this question, he said. The problem would be to get the right bill which would give privacy to the customer, but provide necessary information to appropriate individuals and organizations. Large business organizations, he thought, should be included in privacy legislation, as well as savings and loan associations, credit unions, and insurance companies.

Mr. Henson recommended several changes be made in H.B. 2480 if it were to be considered for passage: (1) release of information upon the written authorization by the customer; (2) disclosure of information to appropriate bank personnel; (3) release of information to persons acting on behalf of the customer, i.e., an executor; (4) disclosure to regulatory and supervisory agencies; (5) disclosures to certain state and federal agencies, i.e., the Internal Revenue Service; (6) disclosures required for wage attachments and garnishments; (7) access to information by persons investigating banks and bank personnel; (8) disclosure to proper law enforcement agencies; (9) free communication of information among banks, i.e., credit checks and insufficient funds drafts.

Mr. Henson did not recall any violation of the informal privacy policy of Kansas banks.

Representative James Lowther, one of the authors of H.B. 2480, spoke to the Committee on the need for privacy legislation (Attachment D). In response to a question, Representative Lowther agreed that the scope of the bill may need to be expanded beyond financial records of financial institutions.

Representative Reimer was concerned about the profiles of people which can be built from information contained in records, and suggested the need for broader legislation. Senator Feleciano wondered if any legislation was needed, since the Committee had insufficient testimony to make a determination. In particular, he wanted to hear from those groups generally associated with "consumer protection issues."

Mr. L.M. Cornish, representing the Kansas Life Association and the Kansas Association of Property and Casualty Companies, spoke on privacy legislation as it affects insurance companies. He explained that insurance companies are regulated in their information-gathering procedures by the Fair Credit Reporting Act. Mr. Cornish acknowledged that the insurance industry relies, in part, on information gathered and stored by national information providers, i.e., Medical Information Bureau Equifax, and Hooper Holmes, Inc. He emphasized that the use of personal and financial data was important in the insurance business, and cautioned against too restrictive legislation.

In the brief Committee discussion which followed, members noted that the charge to the Committee was broad enough to justify expanding the study beyond financial records. It was pointed out that while no great problem has been identified, perhaps the potential abuse of records is reason enough to consider the study. Finally, the Committee learned that a consumer's only remedy to a violation of his or her privacy is in common law.

Meeting adjourned at 3:35 p.m.

September 14
Morning Session

Chairman Arasmith called the meeting to order at 9:15 a.m. Hearings continued on Proposal No. 10 - Privacy of Financial Records.

Mr. Walter Scott, Associated Credit Bureaus of Kansas, introduced Mr. Don Miller of the Topeka Credit Bureau. Mr. Scott told the Committee that credit bureaus are now operating under the Fair Credit Reporting Act. If H.B. 2480 is to be considered, he hoped the bill would not be inconsistant with any provision of the Fair Credit Reporting Act. He reported that several law suits have been filed because people felt their credit information had been improperly reported. Information in credit files is obtained from credit lenders and magistrate court. The credit bureaus use information that can be substantiated by fact, not gossip or rumors, he said. The reporting of bankruptcies must follow guidelines outlined in the Fair Credit Reporting Act. Credit bureaus are often caught in the middle between credit granters and consumers. Regarding records, Mr. Scott replied that there are guidelines in the Fair Credit Reporting Act concerning the number of years certain records must be retained. Vice-Chairman James Holderman told the Committee members that there is one computerized credit agency in Kansas, and it takes that agency about 12 hours to reflect any change in a customer's file. Mr. Scott told the Committee that the consumer does have the right to review his or her records. There are strict penalties if a credit bureau does not comply with the Fair Credit Reporting Act.

Mr. Miller, of the Topeka Credit Bureau, said that there is less than 1 percent error in credit reporting. He also indicated that the credit bureau does not send anyone out to check on consumers. Other agencies, such as Retail Credit, Hooper Holmes and Equifax do the investigation. The credit bureau does not use their information, but insurance companies do use these agencies.

Staff asked Mr. Scott if he was suggesting a language change in subsection F of section 2 of H.B. 2480. Mr. Scott said that there was some confusion as to whether any lender can communicate credit records outside the scope of the Fair Credit Reporting Act, even if to another financial institution.

The Committee was told that a person wanting to receive a report on another individual must sign a statement stating a legitimate need for the credit information. Mr. Scott was asked if any burden would fall on the credit bureaus if a privacy bill were enacted. Mr. Scott said that he has no official position to report from the associated credit bureau members. However, he sees no need for additional privacy requirements at this time.

Mr. Turner, Kansas Savings and Loan League, told the Committee that his association supports the privacy proposal if it can be properly written. Savings associations also operate under the Fair Credit Reporting Act and the Equal Credit Opportunity Act. To restrict the flow of credit information would be most severe, he said. Mr. Turner was asked if he could see any additional burden on his members if privacy legislation were recommended. He said that he would have to see the draft of the bill before responding.

Mr. Ron Todd, Assistant Commissioner of Insurance, was on hand and answered questions from Committee members.

Several members suggested that Equifax be invited to appear before the Committee to find out where the organization obtains its information and how it is used. Also it was suggested that staff get copies of loan applications from banks, credit unions, and other lenders.

Mr. Marvin Umholtz, Kansas Credit Union League, told the Committee that he was monitoring the meeting and had no comment on the subject at this time. Committee members then listened to a tape of a panel discussion on Information and Privacy Seminar from the annual NCSL meeting held recently in Detroit and attended by the Chairman and Vice-Chairman. The panel members were: Senator Robert T. Tennessen, Minnesota; Senator Stanley J. Aronoff, Ohio; Oliver Smoot, Computer and Business Education Manufacturers' Association; and Kathryn H. Humes, Nation Commission on Electronic Funds Transfer. The panel considered the problem of privacy from several perspectives - including state and federal government and the business community.

The meeting was adjourned for lunch.

Afternoon Session

The meeting was called to order by Chairman Arasmith at 1:30 p.m. The review of the NCSL tape continued. Afterwards, the meeting was opened for Committee discussion. Vice-Chairman Holderman asked each Committee member for his or her opinion on the privacy of financial records, recommendations on further hearings, and what additional information should be gathered. Senator Feleciano said that access to personal records by government, without specified reason, should be declared unlawful. Also, other third party uses of information should be restricted. Any person or group wanting information should have to prove a need for the data. We, as Committee members, he said, need to read the information available to become more knowledgeable on the subject.

Senator Rogers viewed privacy as a very complex issue. He thought the Committee might be premature in recommending legislation. Perhaps the subject should be referred to a special study committee. He expressed concern with gatherers of information, i.e., Equifax, Retail Credit, and how they use the information. He suggested that these organizations be invited to appear to answer some of these questions.

Representative Reimer said that he feels the Committee has barely scratched the surface on this topic, and that more time is needed. One area he is most concerned about involves surveys and questionnaires - Readers Digest survey. Why are they taken? Are they available for sale, and, if so, who is the probable buyer? Should not a notice of future sales appear on the questionnaire? Another area of concern is our own state government.

Representative Laird mentioned hospitals, doctors, and college records as areas of his interest. Some colleges, he said, sell information from student records to mailing list organizations.

Representative Thomson said that she is somewhat confused and feels more study is necessary.

Representative Dillon felt the Committee was not ready to make any decision.

Senator Crofoot wondered if there is really a problem, since no one has presented a problem situation. He agreed that privacy is a complex issue, but where is information being misused? Surveys could be used by market research organizations, which in turn could benefit the consumer. He did express concern about health records. He suggested that Committee members check with their banks and insurance companies about the types of information kept on them. Representative Meacham reported his interest in cleaning government's house first. Do we need legislation in the public sector before the private sector, he wondered. He wants to know what organizations have information, why, and with whom do they share it. He, too, would like to hear of some abuses of personal privacy.

After the Committee discussion, staff was directed to invite several persons, agencies and businesses to appear at the October 11-12 meeting. The conferees are to represent both government and the private sector and be prepared to identify areas in which records are kept; the data kept in those areas; the length of time the information is kept; the persons, both governmental and private, who have access to the stored records and the manner in which access is gained; the uses made of the information collected (the original use as well as secondary uses, i.e., mailing lists); and the accessibility to the records by the party who is the subject of the record file.

Staff was also to provide each member with Mr. Henson's suggestions and a copy of the Ohio privacy legislation.

The meeting adjourned at 3:15 p.m.

Prepared by William G. Wolff

Approved by Committee on:

October 11, 1977
Date

_____ BILL NO. _____

By Special Committee on Commercial and Financial Institutions

Re Proposal No. 13

AN ACT relating to insurance; concerning reimbursement or indemnity for services rendered in the treatment of alcoholism, drug abuse, and nervous and mental conditions; amending K.S.A. 1977 Supp. 40-2,105, 40-1809 and 40-1909 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1977 Supp. 40-2,105 is hereby amended to read as follows: 40-2,105. Every insurer, which issues any individual or group policy of accident and sickness, medical or hospital expense insurance which provides for reimbursement or indemnity for services rendered to a person covered by such policy in a medical care facility, must make available by affirmative offer and, if requested by the contract holder, provide reimbursement or indemnity under such policy which shall be limited to not less than thirty (30) days per year when such person is confined ~~in either a licensed hospital~~ for ~~the~~ treatment of alcoholism, drug abuse or nervous or mental conditions in a medical care facility licensed under the provisions of K.S.A. 1977 Supp. 65-429 or a treatment facility for alcoholics licensed under the provisions of K.S.A. 1977 Supp. 65-4014 ~~for the treatment of alcoholism~~, a treatment facility for drug abusers licensed under the provisions of K.S.A. 1977 Supp. 65-4605, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b or a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b. Such policy shall also provide reimbursement or indemnity of a portion of the costs of treatment of such person, as provided in such policy, for alcoholism, drug abuse or nervous or mental conditions in said facilities hereinbefore enumerated

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when confinement therein is not necessary for said treatment.

Sec. 2. K.S.A. 1977 Supp. 40-1809 is hereby amended to read as follows: 40-1809. Such corporations shall be subject to the provisions of ~~K.S.A. 1977 Supp. 40-2,105 and to~~ K.S.A. 40-215, 40-216, 40-218, 40-219, 40-222, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-254, 40-2a01 to 40-2a19, inclusive, and 40-2401 to 40-2421, inclusive, and amendments thereto, and K.S.A. 1977 Supp. 40-214, 40-223, 40-252, 40-2,102, 40-2,105, as amended, 40-2216 to 40-2220, inclusive, and 40-3301 to 40-3313, inclusive, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

Sec. 3. K.S.A. 1977 Supp. 40-1909 is hereby amended to read as follows: 40-1909. Such corporations shall be subject to the provisions of ~~K.S.A. 1977 Supp. 40-2,105 and to~~ K.S.A. 40-215, 40-216, 40-218, 40-219, 40-222, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-254, 40-2,100, 40-2,101, 40-2a01 to 40-2a19, inclusive, and 40-2401 to 40-2421, inclusive, and amendments thereto, and K.S.A. 1977 Supp. 40-214, 40-223, 40-252, 40-2,102, 40-2,104, 40-2,105, as amended, 40-2216 to 40-2220, inclusive, and 40-3301 to 40-3313, inclusive, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

Sec. 4. K.S.A. 1977 Supp. 40-2,105, 40-1809 and 40-1909 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

PROPOSED BILL NO. _____

By Special Committee on Commercial and Financial Institutions

Re Proposal No. 11

AN ACT concerning interest rates; relating to limitations thereon and penalties for exceeding said limitations; amending K.S.A. 1977 Supp. 16-207 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1977 Supp. 16-207 is hereby amended to read as follows: 16-207. (a) Subject to the following provision, the parties to any bond, bill, promissory note or other instrument of writing for the payment or forbearance of money may stipulate therein for interest receivable upon the amount of such bond, bill, note or other instrument of writing, at a rate not to exceed ten percent (10%) per annum unless otherwise specifically authorized by law. The parties to any loan evidenced by a note secured by a first real estate mortgage may stipulate therein for interest receivable upon the amount of such note at a rate not to exceed eleven percent (11%) per annum. The lender may collect from the borrower the actual fees paid a public official or agency of the state, or federal government, for filing, recording or releasing any instrument relating to a loan ~~made under~~ subject to the provisions of this section.

(b) Any person so contracting for a greater rate of interest than that authorized by this section shall forfeit all interest so contracted for in excess of the amount authorized under this section; and in addition thereto shall forfeit a sum of money, to be deducted from the amount due for principal and lawful interest, equal to the amount of interest contracted for in excess of the amount authorized by this section and such amounts may be set up as a defense or counterclaim in any action to enforce the collection of such obligation and the borrower

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shall also recover a reasonable attorney's fee.

Sec. 2. K.S.A. 1977 Supp. 16-207 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

COMMITTEE REPORT

TO: Legislative Coordinating Council

FROM: Special Committee on Commercial and Financial Institutions

RE: PROPOSAL NO. 11 - USURY RATE FOR SAVINGS AND LOAN ASSOCIATIONS

Proposal No. 11 directed the Special Committee on Commercial and Financial Institutions to: study the desirability of allowing exceptions to the limitations on the contract interest rate for certain real estate and commercial loans; and to examine the impact of such exceptions upon Kansas home builders, home buyers, and lending institutions.

Background

The Kansas usury statute dates to an enactment of the 1863 territorial legislature which imposed an interest rate ceiling of 10 percent on all consumer and non-consumer obligations, unless another rate of interest was specifically authorized by some other statute. The usury rate established in the nineteenth century has remained constant to the present time. Several other statutes, however, have been enacted to exempt certain types of transactions from the usury limitation. For the most part, first mortgage real estate loans have been subject to the 10 percent maximum interest rate specified in K.S.A. 1976 Supp. 16-207.

Late in the years 1970, 1973, and 1974, Kansas lenders, particularly the savings and loan associations, were confronted with shortages of lendable funds. While several factors caused the "tight money" situations, the net results were higher than ever interest rates on home loans. On occasion, those rates nearly touched the 10 percent usury ceiling.

In the 1977 Legislature, the House Committee on Commercial and Financial Institutions, at the request of the Kansas Savings and Loan League, introduced H.B. 2530. That bill amends K.S.A. 1976 Supp. 16-207 by exempting from the usury ceiling: (1) loans secured by a first real estate mortgage insured by the Federal Housing

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Administration (FHA) or guaranteed by the Veterans' Administration (VA); (2) loans secured by a first real estate mortgage sold or eligible for sale to the Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), or the Federal Home Loan Mortgage Corporation (FHLMC); and (3) loans secured on a first real estate mortgage against improvements designed for two or more families or other commercial purposes. House Bill No. 2530 was not heard in the 1977 Session, but was recommended by the House Committee for assignment to an interim study committee.

Committee Activity

In the course of its study, the Special Committee on Commercial and Financial Institutions heard testimony from the Kansas Savings and Loan League, the proponent of H.B. 2530 and the only party to appear before the Committee on Proposal No. 11. Representatives of the Kansas Bankers' Association, Kansas Association of Realtors, and the Greater Kansas City Home Builders' Association attended the hearing as observers.

The proponents of an exemption from the usury rate contended that while the usury statute was originally intended to protect consumers from unscrupulous lenders, present experiences and studies demonstrate that such a statute often adversely affects the ones it is designed to protect. Illustrating this conclusion, the representatives of the Kansas Savings and Loan League noted that in the recent periods of "tight money" in Kansas, interest rates nearly reached the usury ceiling. As the interest rates increased, the number of first mortgage loans declined; Veteran Administration and Federal Housing Authority loans were not made; only excellent credit worthy persons with substantial down payments were granted loans; lending on multi-family dwellings was restricted primarily to corporate borrowers; loans were not sold in the secondary markets since the usury ceiling made Kansas loans non-competitive with loans made in states with either a high usury ceiling or with no interest restrictions; and finally, Kansas associations purchased loans from the lesser restricted states which were meant to improve the liquidity and yield of the associations, but which had the effect of reducing the amount of mortgage money available to Kansans. These problems, the Committee was told, could be eliminated during future "tight money" periods through the enactment of H.B. 2530.

After hearing the problems encountered by the savings and loan institutions, the Special Committee surveyed four states which have no or less restrictive usury statutes than Kansas. The Committee discovered that Colorado, Connecticut, Michigan, and North Carolina had not suffered problems of mortgage money availability during recent past "tight money" periods, and that present interest rates in the four states were comparable to current rates being charged in Kansas. Officials in those states believed that the absence of usury restrictions aided them in problem periods and had no adverse effect during normal market periods when competition in the marketplace dictated the interest rates.

Conclusions and Recommendations

Pursuant to the charge contained in Proposal No. 11, the Special Committee on Commercial and Financial Institutions concludes that it is desirable to allow exemptions from the usury rate for loans secured by a first real estate mortgage. However, the Committee rejects the proposed complete removal of the usury ceiling, since no evidence was adduced to indicate a rapid increase in interest rates in such a short period of time so as to preclude the Legislature from changing the rate. Therefore, the Committee recommends _____ Bill No. _____ for passage by the 1978 Legislature.

_____ Bill No. _____ raises the usury rate from the present 10 percent to 11 percent on loans secured by a first real estate mortgage, including those for multi-family dwellings and other commercial purposes.

Respectfully submitted,

_____, 1977

Sen. Neil Arasmith, Chairman
Special Committee on Commercial and Financial Institutions

Rep. Jim Holderman, Vice-Chairman
Sen. John W. Crofoot
Sen. Paul Feleciano, Jr.
Rep. Lloyd Buzzi
Rep. Herman G. Dillon

Rep. Charles F. Laird
Rep. Mike Meacham
Rep. John H. Reimer
Rep. Larry Rogers
Rep. Marjorie J. Thomson

Sen.

Proposal #10-Privacy of Financial Records

To: Special Committee On Commercial &Financial Institutions

Mr. Chairman, Members of the Committee:

I want to thank you for the opportunity to appear before you today to discuss proposed legislation, as has been introduced in H.B. 2480, concerning governmental access to financial records and financial institutions' customers right to privacy.

The rationale for this type of legislation is probably best explained in an advertisement of the American Bankers Association that said in part: "Federal, state and local government officals are legally empowered to require your bank show them records of your private banking transactions--without first notifying you. This is totally opposed to a tradition of American banking in which an individual's private financial records are handled with the utmost confidentiality. Full public disclosure of all financial information about private citizens is contrary to a free society. The public's right-to-know must be balanced with your individual right-to-privacy. This right has been a tradition in American banking."

The california Right to Financial Privacy Act was passed last year and legislative counsel summed up the reasons for the legislation as follows: "Existing law does not provide for a special procedure to be followed when a state or local agency seeks to

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examine financial records of a customer in the course of a civil or criminal investigation.

"This bill enacts the "California Right to Financial Privacy Act." It provides that no officer, employee, or agency of a state or local agency, as defined, or department thereof, may request or obtain from a financial institution, as defined, copies of financial records or information from such records on any customer except in specified circumstances and by specified procedures, and limits the use of financial records authorized to be received.

This bill makes a violation of the California Right to Financial Privacy Act a misdemeanor. It authorizes injunctive relief, and reasonable attorney's fees upon successful action."

The bill requires specified persons, corporations, and licensees to authorize specified state agencies to examine various financial records as a condition of doing business, obtaining a license, or exercising privileges."

The California statute states that the confidential relationships between financial institutions and their customers are built on trust and must be preserved and protected. It continues that the purpose of the act was to clarify and protect the confidential relationship between financial institutions and their customers and to balance a citizen's right-of-privacy with the governmental interest in obtaining information for specific purposes and by specified procedures as set forth in the statute.

The purpose of H.B. 2480 was to establish that any person's financial records would be safe from unauthorized disclosure and insure the confidentiality that has been an important factor in the relationship between financial institutions of all types and their customers. In addition to California, the state of Maryland enacted in 1976 a Financial Records Act similar to the proposed legislation. This summer the Privacy Protection Study Commission adopted final recommendations that would establish, on the federal level, an individual's right to confidentiality over bank records. Any Kansas statute should be enacted with these recommendations in mind as well as with the provisions of the Federal Fair Credit Reporting Act.

The legislation is not designed and should not be drawn to impose undue and costly regulations and record keeping practices on the financial institutions of Kansas. It should not prevent the excahnge of credit information in the credit granting process, it should not contain exceptions to exclude dissemination of information in connection with crimes involving fraud, in use of drafts or checks.

The impetus for this type of legislation has been given a nudge with the advance of electronic funds transfer services throughout the state. The privacy Protection Study Commission addressed much of its recommendations to this problem on a national scale.

James E. Lowther
Representative 16th District