

MINUTES OF THE House COMMITTEE ON Commercial & Financial InstitutionsThe meeting was called to order by Representative Harold P. Dyck at
Chairperson3:30 ~~am~~/p.m. on January 20, 1983 in room 527-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Research Department
Myrta Anderson, Research Department
Bruce Kinzie, Revisor of Statutes' Office
Martha Evans, Committee Secretary

Conferees appearing before the committee:

Jim Maag, Kansas Bankers Association
Jim Turner, Kansas Savings & Loan League
Marvin Umholtz, Kansas Credit Union League

Chairman Dyck welcomed the members of the Committee to the first official meeting of the 1983 session. He explained that the Committee was a hard-working one but one they would enjoy. The Chairman then introduced members of the Staff and Committee members introduced themselves, including their districts, terms in office, and some personal and background information. The Chairman said that for planning purposes that meetings would normally be held on Tuesdays and Thursdays at 3:30 p.m. and that he, Vice Chairman Miller and Representative Francisco, the Ranking Minority Member, would set up the Agenda for the following week. He advised the members that the Committee normally has three sub-committees which are: Banking, Savings & Loans, and Credit Unions. He said that if they had a preference for one of the sub-committees, please let him know. The Chairman told the members that he would try to run the Committee with fairness to all; that he expected respectful conduct; and urged them to ask questions on anything they did not fully understand. He explained that normally they do not pass bills out of Committee on the day of discussions, but wait until a future meeting to vote.

Turning the attention to HB 2001 (concerning multi-bank holding companies) which is presently in the Committee, he warned the members that there would be heavy lobbying on the bill and advised them to avoid taking a position on it until testimony had been heard. He said that he would refer to proponents of the bill as "wets" and those opposing it as "drys". He said that the bill probably would be heard some time next month. Representative Holderman, who served on the Special Interim Committee which introduced the bill, explained that the subject matter has been before the Legislature since the 1950's and was introduced two years ago. It was left idle until last year when it went to a sub-committee because there appeared to be sufficient interest for hearings. He further stated that the subject matter was complex and the Chairman was right in urging members not to commit themselves until they had studied it. Chairman Dyck reiterated that members would be subject to heavy lobbying and urged them not to let it get them down.

Jim Maag of the Kansas Bankers Association was introduced. He presented testimony and requested the committee to introduce three proposals. The first proposal (Attachment 1) amending K.S.A. 16-207d (concerning rules and regulations governing loans) he called a clean-up measure rather than a change in policy. Representative Jarchow asked if there had been problems. Mr. Maag said that the Banking Examiners have had some questions about it and it is confusing to everyone.

Representative Holderman moved that the proposed legislation be introduced as a committee bill. Representative Jarchow seconded the motion, and the motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Commercial & Financial Institutions,
room 527-S, Statehouse, at 3:30 ~~xxx~~/p.m. on January 20, 1983.

The second proposal (Attachment 2) amending K.S.A. 16-842 (concerning providing a pre-stamped envelope to credit cardholder) was described as another clean-up measure because the cardholder uses the telephone rather than the pre-stamped envelope to advise the bank of loss or theft of his card.

Representative Holderman moved that the proposed legislation be introduced as a committee bill. Representative Teagarden seconded the motion, and the motion carried.

The third proposal (Attachment 3) amending K.S.A. 16-207 (concerning interest rates) is requested by the Kansas Bankers Association along with the Kansas Credit Union League, the Kansas Association of Finance Companies, and groups representing car dealers in the state and retailers affiliated with the Kansas Association of Commerce & Industry. The bill does two things: (1) deregulates consumer credit transactions above \$5,000 and (2) below \$5,000 sets a ceiling of 21%. He said that this is one of the most hotly debated issues you have. He stated the KBA believes that they have a strong argument to present and would like to have the bill introduced. Bruce Kinzie of the Revisor's Office suggested two sections would need some clean-up.

Representative Holderman moved that the proposed legislation be introduced as a committee bill. Representative Miller seconded the motion, and the motion carried.

Jim Turner of the Savings & Loan League was then introduced. He presented testimony (Attachment 4) and requested the committee to introduce the proposed legislation as contained in the testimony. He said that the Savings & Loans were requesting two bills. The first proposal amending K.S.A. 58-2312 (concerning contract for payment of fees incurred in foreclosure of certain mortgages) would allow the judge to make the determination.

Representative Holderman moved that the proposed legislation be introduced as a committee bill. Representative Jarchow seconded the motion, and the motion carried.

The second proposal amending K.S.A. 9-1406 and K.S.A. 1982 Supp. 9-1401 through 1407, 12-1675, 12-1676, and 17-5002 and repealing the existing sections (concerning public moneys; relating to deposits and investments by governmental subdivisions) would bring state-chartered institutions into conformity with the 1982 Federal Act Garn-St. Germain Bill which allows Savings & Loan Companies to offer NOW checking accounts to local units.

Representative Holderman moved that the proposed legislation be introduced as a committee bill. Representative Wilbert seconded the motion, and the motion carried.

Marvin Umholtz of the Kansas Credit Union League was introduced to the Committee. His testimony (Attachment 5) contained three proposals which he said they would prefer as one bill but would leave it to the expertise of the Revisor's Office whether it would be best as one, two, or three bills. He also stated that the Revisor's Office was welcome to make any clean-up or clarifying amendments.

Representative Miller made a conceptual motion that the proposed legislation be introduced as a committee bill or bills (the number to be decided by the Revisor's Office). Representative Nichols seconded the motion, and the motion carried.

There was no further business, and the meeting adjourned at 4:25 p.m.

GUEST LIST

HOUSE COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

DATE JANUARY 20, 1983

NAME	REPRESENTING	ADDRESS
Tom REGAN	KAFQ	TOPEKA
Stan Lind	KAFK	KCK
John Peterson	KAFG	Topeka
Jim Mang	KBA	"
Tom Wilder	KSL	Topeka
Jim Turner	KSL	Topeka
Melvin Umbreit	KUL	Topeka
Jim Succow	Ks Home Car Dealer Assn	TOPEKA
Margie Tidwell	Ks. Manu. Housing	Topeka

Section 1. K.S.A. 1982 Supp. 16-207d is hereby amended to read as follows: 16-207d. The state bank commissioner, consumer credit commissioner, savings and loan commissioner and credit union administrator shall jointly adopt rules and regulations for the purpose of governing loans made primarily for personal, family or household purposes and made under the provisions of subsection (h) of K.S.A. 16-207, and any amendments thereto, and subsection (8) of K.S.A. 16a-2-401, and any amendments thereto. Such rules and regulations shall be published in only one place in the Kansas administrative regulations as directed by the state rules and regulations board.

Sec. 2. K.S.A. 1982 Supp. 16-207d is hereby repealed.

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

Section 1. K.S.A. 16-842 is hereby amended to read as follows: 16-842. (a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of \$50, the card issuer gives adequate notice to the cardholder of the potential liability, ~~the card issuer has provided the cardholder with a self-addressed, prestamped notification to be mailed by the cardholder in the event of the loss or theft of the credit card,~~ and the unauthorized use occurs before the cardholder has notified the card issuer. . . .

Sec. 2. K.S.A. 16-842 is hereby repealed.

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

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

Section 1. K.S.A. 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 ~~10%~~ 15% per annum unless otherwise specifically authorized by law.

(b) The maximum rate of interest per annum for notes secured by all real estate mortgages and contracts for deed to real estate executed on or after the effective date of this act shall be at an amount equal to 1½ percentage points above the average weighted yield of mortgages accepted under the federal home loan mortgage corporation's weekly purchase program effective on the first day of each month unless otherwise specifically authorized by law. Such interest rate shall be computed for each calendar month and be effective on the first day thereof. The secretary of state shall publish notice of such maximum interest rate in the first issue of the Kansas register published each month. The initial rate of interest upon any conventional loan evidenced by a note secured by a real estate mortgage shall not exceed the rate quoted in the application executed by the borrower on the day on which application for such conventional loan is made.

(c) No penalty shall be assessed against any party for prepayment of any home loan evidenced by a note secured by a real estate mortgage where such prepayment is made more than six months after execution of such note.

(d) The lender may collect from the borrower: (1) 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 subject to the provisions of this section; and (2) reasonable expenses incurred by the lender in connection

with the making, closing, disbursing, extending, readjusting or renewing of loans subject to the provisions of this section.

(d) (e) 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 shall also recover a reasonable attorney's fee.

(e) (f) The interest rates prescribed in subsections (a) and (b) of this section shall not apply to a business or agricultural loan. For the purpose of this section unless a loan is made primarily for personal, family or household purposes, the loan shall be considered a business or agricultural loan. For the purpose of this subsection, a business or agricultural loan shall include credit sales and notes secured by contracts for deed to real estate.

(f) (g) Loans made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant, are not subject to the interest rates prescribed in subsections (a) and (b) of this section.

(h) The interest rates prescribed in subsections (a) and (b) of this section shall not apply to a note secured by a real estate mortgage or a contract for deed to real estate where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule.

(i) The interest rates prescribed in subsections (a) and (b) of this section shall not apply to a consumer credit transaction as defined by KSA 16(a)-1-301(11) in which the amount financed is in excess of \$5000, provided, that all other provisions of KSA 16a-1-101 through 16a-9-102 shall be applicable to consumer credit transactions in which the amount financed is in excess of \$5000 but less than \$25000.

Attachment 3

House C&FI 1/20/83

1982 Supp.

in which the amount financed is \$5000 or less,

Section 2. K.S.A. 16a-2-201 is hereby amended to read as follows: 16a-2-201. (1) With respect to a consumer credit sale, other than a sale pursuant to open end credit, a seller may contract for and receive a finance charge not exceeding that permitted by this section.

(2) The finance charge, calculated according to the actuarial method, may not exceed the ~~equivalent of the following:~~

~~The total of:~~

~~(a) Twenty one percent per year on that part of the unpaid balance of the amount financed which is \$300 or less,~~

~~(b) eighteen percent per year on that part of the unpaid balance of the amount financed which is more than \$300 but does not exceed \$1,000, and~~

~~(c) fourteen and forty five hundredths percent per year on that part of the unpaid balance of the amount financed which is more than \$1,000.~~

the maximum annual rates of finance charge permitted by K.S.A. 1982 Supp. 16a-2-401(2) and (9) and amendments thereto, as modified pursuant to K.S.A. 16a-2-401a. and amendments thereto.

(3) This section does not limit or restrict the manner of calculating the finance charge whether by way of add-on, discount, or otherwise, so long as the rate of the finance charge does not exceed that permitted by this section. If the sale is precomputed:

(a) The finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (16a-2-510).

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed 10 days or more after that date, with the date of commencement of delivery or performance. Differences in the lengths of months are disregarded and a day may be counted as 1/30th of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15 days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same finance charge on all amounts financed within a specified range. A finance charge so made does not violate subsection (2) if:

(a) When applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of finance charge exceeding the rate calculated according to paragraph (a) by more than 8% of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum finance charge of not more than \$5 when the amount financed does not exceed \$75, or not more than \$7.50 when the amount financed exceeds \$75.

~~(7) As an alternative to the rates set forth in subsection (2) during the period beginning on the effective date of this act and ending July 1, 1982-1983, the seller may contract for and receive a finance charge not exceeding 18% 21% per year on the unpaid balances of the amount financed.~~

Sec. 3. K.S.A. 16a-2-202 is hereby amended to read as follows: 16a-2-202. (1) With respect to a consumer credit sale made pursuant to open end credit, the parties to the sale may contract for the payment by the buyer of a finance charge not exceeding that permitted in this section.

in which the amount financed is \$5000 or less

(2) A charge may be made in each billing cycle which is a percentage of an amount no greater than:

(a) The average daily balance of the account, which is the sum of the actual amounts outstanding each day during the billing cycle divided by the number of days in the cycle;

(b) the unpaid balance of the account on the last day of the billing cycle; or

(c) the median amount within a specified range within which the average daily balance of the account or the unpaid balance of the account on the last day of the billing cycle is included. A charge may be made pursuant to this paragraph only if the seller, subject to classifications and differentiations the seller may reasonably establish, makes the same charge on all balances within the specified range and if the percentage when applied to the median amount within the range does not produce a charge exceeding the charge resulting from applying that percentage to the lowest amount within the range by more than 8% of the charge on the median amount.

(3) If the billing cycle is monthly, the charge may not exceed ~~1.75%~~ of that part of the amount pursuant to subsection (2) which is \$300 or less and 1.50% on that part of this amount which is more than \$300 but not more than \$1,000 and 1.20% on that part of this amount which is more than \$1,000. If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to 30. For the purposes of this section, a variation of not more than four days from month to month is "the last day of the billing cycle."

1/12 of the maximum annual rates permitted by K.S.A. 1982 Supp. 16a-2-401(2) and (9) as modified pursuant to K.S.A. 16a-2-401a. and amendments thereto.

(4) Notwithstanding subsection (3), if there is an unpaid balance on the date as of which the credit service charge is applied, the seller may contract for and receive a charge not exceeding \$.50 if the billing cycle is monthly or longer, or the pro rata part of \$.50 which bears the same relation to \$.50 as the number of days in the billing cycle bears to 30 if the billing cycle is shorter than monthly.

~~(5) As an alternative to the rates set forth in subsection (3), during the period beginning on the effective date of this act and ending July 1, 1982-1983, the parties to the sale may contract for and the seller may receive a finance charge not exceeding 18% per year on the amount determined pursuant to subsection (2).~~

Section 4. K.S.A. 16a-2-401 is hereby amended to read as follows: 16a-2-401. (1) With respect to a consumer loan, including a loan pursuant to open end credit, a lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding 18% per year on the unpaid balance of the amount financed not exceeding \$1,000 and 14.45% per year on that portion of the unpaid balance in excess of \$1,000.

in which the amount financed is \$5000 or less

(2) As an alternative to the rates set forth in subsection (1), with respect to a supervised loan made under a license issued by the administrator, including a loan pursuant to open end credit, a supervised lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding the equivalent of the greater of either of the following:

15%

The total of (a) 36% per year on that part of the unpaid balance of the amount financed which is \$300 or less; and

(b) twenty-one percent per year on that part of the unpaid balance of the amount financed which is more than \$300, but does not exceed \$1,000; and

(c) ~~fourteen and forty-five hundredths~~ percent per year on that portion of the unpaid balance of the amount financed which is more than \$1,000; or

fifteen

(d) eighteen percent per year on the unpaid balance of the amount financed.

(3) This section does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the finance charge does not exceed that permitted by this section. The finance charge may be contracted for and earned at the single annual percentage rate that would earn the same finance charge as the graduated rates when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method. If the loan is pre-computed:

(a) The finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (section 16a-2-510).

(4) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded and a day may be counted as $\frac{1}{30}$ th of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15 days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same finance charge on all amounts financed within a specified range. A finance charge so made does not violate subsections (1) and (2) if:

(a) When applied to the median amount within each range, it does not exceed the maximum amount permitted in subsections (1) and (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of finance charge exceeding the rate calculated according to paragraph (a) by more than 8% of the rate calculated according to paragraph (a).

(6) Notwithstanding subsections (1) and (2), a lender may contract for and receive a minimum finance charge of not more than \$5 when the amount financed does not exceed \$75, or not more than \$7.50 when the amount financed exceeds \$75.

(7) This section shall not apply to a loan secured by an interest in land the interest rate of which is governed by subsection (b) of K.S.A. 16-207, unless made subject hereto by agreement.

(8) *This section shall not apply to a loan secured by an interest in land subordinate to a prior mortgage and held by a lender other than the lender of the first mortgage, the interest rate of which is governed by subsection (b) or (h) of K.S.A. 16-207, and any amendments thereto, unless made subject hereto by agreement.*

~~(9) As an alternative to the rates set forth in subsection (1) and subsection (2)(d), during the period beginning on the effective date of this act and ending July 1, 1982-1983, a supervised financial organization lender may contract for and receive a finance charge not exceeding 18% 21% per year on the unpaid balance of the amount financed.~~

Sec. 5. K.S.A. 1982 Supp. 16-207, 16a-2-201, 16a-2-202, 16a-2-401 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.



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JAMES R. TURNER
PRESIDENT

January 20, 1983

TO: HOUSE COMMERCIAL AND FINANCIAL INSTITUTIONS COMMITTEE
FROM: JIM TURNER, KANSAS SAVINGS AND LOAN LEAGUE
RE: INTRODUCTION OF BILLS

The Kansas Savings and Loan League appreciates the opportunity to appear before the House Commercial and Financial Institutions Committee to request introduction of the two attached proposals.

1. A measure amending K.S.A. 58-2312 relating to mortgage foreclosures which would allow the courts greater flexibility in the assessment of costs involved in a foreclosure.
2. A measure amending Chapter 9 dealing with the investment of local public funds conforming to the 1982 federal act, the Garn-St. Germain bill, which allows savings and loan associations to offer NOW checking accounts to local units. The proposal also addresses the federal act provisions relating to federally-chartered savings banks as well as correcting an oversight in the 1982 amendments to K.S.A. 12-1675.

We would appreciate the committee's earliest consideration of introducing these two measures so that appropriate hearings may be scheduled.

James R. Turner
President

JRT:bw

Encl.

Attachment 4

House C&FI 1/20/83

BILL NO. _____

AN ACT authorizing contracts for payment of fees incurred in foreclosure of certain mortgages; amending K.S.A. 58-2312 and repealing the existing section.

BE IT ENACTED by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-2312 is hereby amended to read as follows: 58-2312. Hereafter it shall be (a) Except as provided by subsection (b), it is unlawful for any person ~~or persons~~, company, corporation or bank, to contract for the payment of attorney's fees in any note, bill of exchange, bond or mortgage, and any such Any contract or stipulation ~~for the payment of attorney's fees to that effect~~ shall be null and void, and that hereafter, and no court in this state shall render any judgment, order or decree by which any attorney's fees shall be allowed or charged to the maker of any promissory note, bill of exchange, bond, mortgage, or other evidence of indebtedness by way of fees, expenses, costs or otherwise. ~~Provided, That in all existing mortgages wherein no amount is stipulated as attorney's fees, not more than eight percent on sums of two hundred and fifty dollars or under, and not more than five percent on all sums over two hundred and fifty dollars, shall be allowed by any court as attorney's fees. And provided further, That this act shall not apply to existing mortgages wherein any sum has been stipulated as attorney's fees.~~

(b) Any loan evidenced by a note secured by a first real estate mortgage may include a contractual agreement allowing the court to enter judgment in rem for reasonable attorney fees incurred by the holder of the note to foreclose the mortgage. The judgment shall be discharged and void if the defendant owner of the real estate subject to the first mortgage is the purchaser of the real estate sold under execution or redeems the real estate in conformity with applicable law.

Sec. 2. K.S.A. 58-2312 is hereby repealed.

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

AN ACT concerning public moneys; relating to deposits and investments by governmental subdivisions; amending K.S.A. 9-1406 and K.S.A. 1982 Supp. 9-1401, 9-1402, 9-1403, 9-1405, 9-1407, 12-1675, 12-1676, and 17-5002 and repealing the existing sections.

BE IT ENACTED by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 9-1401 is hereby amended to read as follows: 9-1401. (a) The governing body of any municipal corporation or quasi-municipal corporation shall designate by official action recorded on its minutes the state and national banks and trust companies and the state and federally chartered savings and loan associations and federally chartered savings banks which shall serve as depositories of its funds and the state and federally chartered savings and loan associations which shall serve as depositories, pursuant to K.S.A. 12-1675 to 12-1678a, inclusive, and amendments to such sections, of its invested funds and the officer and the official having the custody of such funds shall not deposit such funds other than at such designated banks, and trust companies, and savings and loan associations and savings banks. The state and national banks and trust companies and the state and federally chartered savings and loan associations and federally chartered savings banks which have home offices located in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located and the state and federally chartered savings and loan associations which have home offices located in such municipal corporation or quasi-municipal corporation shall be designated as such official depositories if the municipal or quasi-municipal corporation can obtain satisfactory security therefor.

(b) Every officer or person depositing public funds shall deposit all such public funds coming into such offices or person's possession in their name and official title as such officer. If the governing body of the municipal corporation or quasi-municipal corporation fails to designate an official depository or depositories, the officer thereof having custody of its funds shall deposit such funds with one or more state or national banks or trust companies or one or more state or federally chartered savings and loan associations or federally chartered savings banks which have home offices located in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located and for funds deposited pursuant to K.S.A. 12-1675 to 12-1678a, inclusive, and amendments to such sections, one or more state or federally chartered savings and loan associations which have offices located in such municipal corporation or quasi-municipal corporation if satisfactory security can be obtained therefor and if not then elsewhere, but upon so doing shall serve notice in writing on the governing body showing the names and locations of such banks, and trust companies, and savings and loan associations, and federally chartered savings banks where such funds are deposited, and upon so doing the officer having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by such officer.

(c) As used in this section and K.S.A. 9-1403 and K.S.A. ~~1981~~ 1982 Supp. 9-1402 and 9-1405, and amendments to such sections, "municipal corporation or quasi-municipal corporation" includes each investing governmental unit under K.S.A. ~~1981~~ 1982 Supp. 12-1675 and amendments thereto.

Section 2. K.S.A. 1982 Supp. 9-1402 is hereby amended to read as follows: 9-1402. (a) Before any deposit of public moneys or funds shall be made by any municipal corporation or quasi-municipal corporation of the state of Kansas with any state or national bank, or trust company, or state or federally chartered savings and loan association or federally chartered savings bank, such municipal or quasi-municipal corporation shall obtain security for such deposit in one of the following manners prescribed by this section.

(b) Such bank, or trust company, or savings and loan association or federally chartered savings bank may give to the municipal corporation or quasi-municipal corporation a personal bond in double the amount which may be on deposit at any given time.

(c) Such bank, or trust company, or savings and loan association or federally chartered savings bank may give a corporate surety bond of some surety corporation authorized to do business in this state, which bond shall be in an amount equal to the public moneys or funds on deposit at any given time and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal corporation or quasi-municipal corporation making such deposits.

(d) Any state or national bank, or trust company, or state or federally chartered savings and loan association or federally chartered savings bank may deposit, maintain, pledge and assign for the benefit of the governing body of the municipal corporation or quasi-municipal corporation in the manner provided in this act, securities of the market value of which is equal to no less than 70% of the total deposits at any given time, and such securities shall consist of:

(1) direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of United States sponsored corporations which under federal law may be accepted as security for public funds;

(2) bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, or direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America;

(3) bonds of the state of Kansas;

(4) general obligation bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas;

(5) revenue bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas if approved by the state bank commissioner in the case of banks and by the savings and loan commissioner in the case of savings and loan associations or federally chartered savings banks;

(6) negotiable promissory notes which are not in default together with first lien real estate mortgages on real estate located within the state of Kansas securing payment of such notes;

(7) temporary notes of any municipal corporation or quasi-municipal corporation of the state of Kansas which are general obligations of the municipal or quasi-municipal corporation issuing the same;

(8) warrants of any municipal corporation or quasi-municipal corporation of the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy;

(9) bonds of either a Kansas not-for-profit corporation or of a local housing authority that are rated at least Aa by Moody's Investors Service or AA by Standard & Poor's Corp.,

(10) bonds issued pursuant to K.S.A. 12-1740 et seq. that are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp.; or

(11) notes of a Kansas not-for-profit corporation that are issued to provide only the interim funds for a mortgage loan that is insured by the federal housing administration.

(e) No state or national bank, ~~or~~ trust company, ~~or~~ state or federally chartered savings and loan association or federally chartered savings bank may deposit and maintain for the benefit of the governing body of a municipal or quasi-municipal corporation of the state of Kansas, any securities which consist of:

(1) bonds secured by revenues of a utility which has been in operation for less than three years; or

(2) bonds issued under K.S.A. 12-1740 et seq., unless such bonds have been refunded in advance of their maturity as provided in sub-section (d) or such bonds are rated at least Aa by Moody's Investors Service or AA by Standard & Poor's Corp.

(f) Any state or national bank, ~~or~~ trust company, ~~or~~ state or federally chartered savings and loan association or federally chartered savings bank which has agreed to pay a rate of interest upon moneys deposited pursuant to K.S.A. ~~1981~~ 1982 Supp. 12-1675, and any amendments thereto, greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the incep-

tion of such deposit contract, and depositing, pledging and assigning securities to secure payment of such deposit, shall deposit and maintain for the benefit of the governing body of the municipal corporation or quasi-municipal corporation, in the manner as provided in this act, securities of a type described in this section market value of which is equal to no less than 100% of such deposit.

(g) Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(h) All negotiable promissory notes secured by first lien mortgages on real estate pledged and assigned as security shall be valued pursuant to rules and regulations which have been adopted by both the state bank commissioner and the savings and loan commissioner after having first being submitted to and approved by both the state banking board under K.S.A. 9-1713 and amendments thereto and the savings and loan board. Such rules and regulations shall be published in only one place in the Kansas administrative regulations as directed by the state rules and regulations board. All such notes shall be approved by the governing body of such municipal corporation or quasi-municipal corporation before the same shall be accepted as security. Negotiable promissory notes secured by first lien mortgages on real estate shall be taken at their value for not more than 75% of the security required under the provisions of this act.

Section 3. K.S.A. 1982 Supp. 9-1403 is hereby amended to read as follows: 9-1403. (a) During the periods of peak deposits occurring at tax paying time and tax distributing time and continuing for a period not to exceed 60 continuous days at any given time and not to exceed 120 days in any calendar year the amount of security for the deposit of public moneys as required under K.S.A. ~~1981~~ 1982 Supp. 9-1402 and amendments thereto shall be reduced by $\frac{1}{2}$ in amount thereof.

(b) The provisions of this section shall apply only to the deposits of all municipal corporations and quasi-municipal corporations, but the custodian of the funds of each of such municipal corporations or quasi-municipal corporations together with an officer of the depository state or national bank, ~~or~~ trust company, ~~or~~ federally chartered savings and loan association or federally chartered savings bank shall designate in writing the beginning of each such sixty-day period, and a copy thereof, fully executed, shall be kept on file in the office of the governing body of such municipal corporation or quasi-municipal corporation and in the files of such bank, ~~or~~ trust company, ~~or such~~ savings and loan association or federally chartered savings bank.

Section 4. K.S.A. 1982 Supp. 9-1405 is hereby amended to read as follows: 9-1405. (a) All bonds and securities given by any bank, ~~or~~ trust company, ~~or~~ savings and loan association or federally chartered savings bank to secure public moneys of the United States or any board, commission or agency thereof, shall be deposited as required by the United States government or any of its designated agencies.

(b) All bonds and securities pledged to secure the deposits of any municipal corporation or quasi-municipal corporation shall be deposited with a state or national bank or trust company having adequate modern facilities for the safe-keeping of securities or the federal home loan bank of Topeka, and a joint custody receipt taken therefor with one copy going to the municipal corporation or quasi-municipal corporation making the public deposit and one copy going to the bank, ~~or~~ trust company, ~~or~~ savings and loan association or federally chartered savings bank which has secured such public deposits. No bonds or securities pledged to secure public deposits shall be left for safekeeping in any safe deposit vault owned or controlled directly or indirectly by the bank, ~~or~~ trust company, ~~or~~ savings and loan association or federally chartered savings bank securing such public deposits.

(c) All such bonds and securities shall be deposited under a joint custody receipt issued by a bank within the state of Kansas or the federal reserve bank of Kansas City or the federal home loan bank of Topeka. All bonds or securities held by any depository and for which a joint custody receipt has been issued shall be retained by such depository and not released except upon consent of both the municipal corporation or quasi-municipal corporation making the deposit and the bank, ~~or~~ trust company, ~~or~~ savings and loan association or federally chartered savings bank taking or securing such deposit. In every report required to be published by any bank, ~~or~~ trust company, ~~or~~ savings and loan association or federally chartered savings bank it shall show in full all of the assets pledged or deposited as security for public moneys.

Section 5. K.S.A. 9-1406 is hereby amended to read as follows: No public officer nor the sureties upon such officer's bond shall be liable for any loss sustained by the failure or default of any designated depository or depositories after a deposit or deposits have been made in an officially designated bank, ~~or~~ trust company, savings and loan association or federally chartered savings bank as provided in this act. The exemption from liability shall apply even though other statutes shall require the furnishing of a bond or other securities by the designated depositories of public money.

Section 6. K.S.A. 1982 Supp. 12-1675 is hereby amended to read as follows: 12-1675 (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the State of Kansas having authority to receive, hold and expend public moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only in:

- (1) Temporary notes issued by such investing governmental unit;

- (2) time deposit, open accounts or certificates of deposit (A) in commercial banks or trust companies which have home offices located in such investing governmental unit, or (B) if the home office of no commercial bank or trust company is located in such investing governmental unit, then in commercial banks or trust companies which have home offices located in the county or counties in which all or part of such investing governmental unit is located, or (C) if such appropriate eligible commercial banks or trust companies cannot or will not make such deposits available to the investing governmental unit at interest rates equal to or greater than (i) the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract or (ii) the maximum rates such banks or trust companies may pay on such deposits under applicable law or regulation, whichever is lower, then in commercial banks or trust companies which have home offices located within the county or in the counties of the State of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;
- (3) in time certificates of deposit (A) with savings and loan associations or federally chartered savings banks which have home offices located in such investing governmental unit, or (B) if the home office of no savings and loan association or federally chartered savings bank is located in such governmental unit, then with savings and loan associations or federally chartered savings banks which have home offices located in the county or counties in which all or part of such investing governmental unit is located, or (C) if such appropriate eligible savings and loan associations or federally chartered savings banks cannot or will not make such deposits available to the investing governmental unit at interest rates equal to or greater than (i) the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract or (ii) the maximum rates such savings and loan associations or federally chartered savings banks may pay on such deposits under applicable law or regulation, whichever is lower, then with savings and loan associations or federally chartered savings banks which have home offices located within the county or in the counties of the State of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

- (4) repurchase agreements with (A) commercial banks, or trust companies, or savings and loan associations or federally chartered savings banks which have home offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof, or (B) (i) if the home office of no commercial bank, or trust company, or savings and loan association or federally chartered savings bank is located in such investing governmental unit or (ii) if no commercial bank, or trust company, or savings and loan association or federally chartered savings bank has a home office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract, then such repurchase agreements may be entered into with commercial banks, or trust company, or savings and loan association or federally chartered savings bank which have home offices located in the county or counties in which all or part of such investing governmental unit is located, or (C) if no bank, or trust company, or savings and loan association or federally chartered savings bank which has its home office located in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract then such repurchase agreements may be entered into with commercial banks, or trust companies, or savings and loan associations or federally chartered savings banks which have home offices located in the State of Kansas; or
- (5) United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding six months.

(c) The investment authorized in clause (5) of subsection (b) shall be utilized only if the appropriate eligible commercial banks or trust companies, which have home offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank or trust company has a home office which is located

within such governmental unit, or the appropriate eligible savings and loan associations or federally chartered savings banks, which have home offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such savings and loan association or federally chartered savings bank has a home office which is located within such governmental unit, cannot or will not make the investments authorized in clause (2) or clause (3) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than (A) the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the inception of such deposit contract or (B) the maximum rates such commercial banks, ~~or~~ trust companies, ~~or~~ savings and loan associations or federally chartered savings banks may pay on the investments authorized in clause (2) or clause (3) of subsection (b) under applicable law or regulation, whichever is lower.

Section 7. K.S.A. 1982 Supp. 12-1676 is hereby amended to read as follows: 12-1676. Except as otherwise provided in K.S.A. ~~1981~~ 1982 Supp. 12-1678a, and any amendments thereto, the provisions of this act authorizing the investment of moneys shall not apply to moneys collected or received by a county for apportionment, credit or distribution to the state or any political subdivision thereof. Interest paid by commercial banks or trust companies on time deposit, open accounts and certificates of deposit of investing governmental units and by savings and loan associations or federally chartered savings banks on time certificates of deposit of investing governmental units shall be at rates agreed upon by the governmental units and the banks, ~~or~~ trust companies, ~~or~~ savings and loan associations or federally chartered savings banks.

Section 8. K.S.A. 1982 Supp. 17-5002 is hereby amended to read as follows: 17-5002. (a) Administrators, executors who have filed bonds pursuant to K.S.A. 59-1101, conservators, trustees, insurance companies and other financial institutions, charitable, educational, eleemosynary corporations and organizations are authorized in addition to investments now authorized by law, to invest funds which they are authorized by law to invest, in shares or savings deposits of federally insured savings and loan associations or federally chartered savings banks and such investment shall be deemed held to be legal investments for such funds.

(b) The governing body of any municipal corporation or quasi-municipal corporation, county, township, school district, area vocational-technical school, community college, firemen's relief associa-

tion, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or division in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest the same in state or federally chartered savings and loan associations or federally chartered savings banks subject to and as provided by K.S.A. 1982 Supp. 9-1401, ~~and 9-1407~~ and ~~K.S.A. 1981 Supp. 9-1402, 9-1405, 9-1407, 12-1675 and 12-1676~~ and amendments to such sections.

Section 9. K.S.A. 9-1406 and K.S.A. 1982 Supp. 9-1401, 9-1402, 9-1403, 9-1405, 9-1407, 12-1675, 12-1676 and 17-5002 are hereby repealed.

Section 10. This act shall take effect and be in force from and after its publication in the statute book.

BILL PROPOSAL REQUEST

Presented to the
House Commercial and Financial Institutions Committee

by Marvin C. Umholtz
Governmental Affairs Director
Kansas Credit Union League

January 20, 1983

Mr. Chairman, Members of the Committee:

Thank you for this opportunity to appear before the Committee. My name is Marvin Umholtz, Governmental Affairs Director for the Kansas Credit Union League, the statewide trade association representing over 90% of the credit unions in Kansas, both state and federally chartered. The 217 credit unions which are members of our association are owned by and serving over 400,000 members.

We are requesting the introduction by this Committee of a bill or bills which accomplish the indicated statutory changes. Subject to the wishes of the Committee and a determination of the compatibility of the suggested amendments by the Revisor's office, we would prefer one bill which includes all of the amendments. Revisor's office technical, clean-up and clarifying amendments are certainly welcome.

The statutory amendments in our proposal include:

- ° Administrator, executor and trustee investment authority in insured credit unions. Amending: K.S.A. 1982 Supp. 17-5002 and 58-1203.
- ° Real estate brokers' and salespersons' license act; authority to invest trust accounts in insured credit unions. Amending: K.S.A. 1982 Supp. 58-3061.
- ° Funeral agreements, contracts and plans; authority to invest pre-paid funeral or burial plan monies in insured credit unions. Amending: K.S.A. 16-301, 16-302, 16-304 and K.S.A. 1982 Supp. 16-303.

Thank you, Mr. Chairman, I will certainly stand ready to answer any questions concerning this request.

SHORT TITLE: Administrator, Executor and Trustee Investment Authority in Insured Credit Unions.

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

1 Section 1. K.S.A. 1982 Supp. 17-5002 is hereby amended to read as
 2 follows:
 3 17-5002. (a) Administrators, executors who have filed bonds pursuant
 4 to K.S.A. 59-1101, conservators, trustees, insurance companies and other
 5 financial institutions, charitable, educational, eleemosynary corporations
 6 and organizations are authorized in addition to investments now authorized
 7 by law, to invest funds which they are authorized by law to invest, in
 8 shares or savings deposits of federally insured savings and loan associa-
 9 tions and in credit unions which are, in whole or in part, insured with
 10 an insurer or guarantee corporation as required by article 22 of chapter
 11 17 of the Kansas Statutes Annotated, and amendments thereto, and such
 12 investment shall be deemed and held to be legal investments for such funds.

13 (b) The governing body of any municipal corporation or quasi-
 14 municipal corporation, county, township, school district, area vocational-
 15 technical school, community college, firemen's relief association, commu-
 16 nity mental health center, community facility for the mentally retarded or
 17 any other governmental entity, unit or division in the state of Kansas
 18 having authority to receive, hold and expend public moneys or funds may
 19 invest the same in state or federally chartered savings and loan associa-
 20 tions subject to and as provided by K.S.A. 1982 Supp. 9-1401, 9-1402,
 21 9-1405, and 9-1407 and K.S.A. 1981 Supp. 9-1402, 9-1405, 12-1675 and
 22 12-1676 and amendments to such sections.

23 Sec. 2. K.S.A. 1982 Supp. 58-1203 is hereby amended to read as
 24 follows:

25 58-1203. (a) From time of creation of the trust until final distribu-
 26 tion of the assets of the trust, a trustee has the power to perform, with-
 27 out court authorization, every act which a prudent man would perform for
 28 the purposes of the trust including but not limited to the powers specified
 29 in subsection (c).

30 (b) In the exercise of powers including the powers granted
 31 by this act, a trustee has a duty to act with due regard to the obliga-
 32 tion as a fiduciary.

1 (c) A trustee has the power, subject to subsections (a) and
2 (b):

3 (1) To collect, hold, and retain trust assets received
4 from a trustor until, in the judgment of the trustee, disposition of the
5 assets should be made; and the assets may be retained even though they
6 include an asset in which the trustee is personally interested;

7 (2) to receive additions to the assets of the trust;

8 (3) to continue or participate in the operation of any
9 business, partnership or other enterprise, and to effect incorporation,
10 dissolution, or other change in the form of the organization of such busi-
11 ness, partnership or enterprise;

12 (4) to acquire an undivided interest in a trust asset
13 in which the trustee, in any trust capacity, holds an undivided interest;

14 (5) to invest and reinvest trust assets in accordance
15 with the provisions of the trust or as provided by law;

16 (6) to deposit trust funds in all available forms of
17 deposit, including but not limited to, bank demand deposits, time deposits
18 and savings deposits, including all such available forms of deposit at a
19 bank operated by the trustee;

20 (7) to acquire or dispose of an asset, for cash or on
21 credit, at public or private sale; and to manage, develop, improve, exchange,
22 partition, change the character of, or abandon a trust asset or any interest
23 therein; and to encumber, mortgage, or pledge a trust asset for a term
24 within or extending beyond the term of the trust, in connection with the
25 exercise of any power vested in the trustee;

26 (8) to make ordinary or extraordinary repairs or altera-
27 tions in buildings or other structures, to demolish any improvements, to
28 raze existing or erect new party walls or buildings;

29 (9) to subdivide, develop, or dedicate land to public
30 use; or to make or obtain the vacation of plats and adjust boundaries; or
31 to adjust differences in valuation on exchange or partition by giving or
32 receiving consideration; or to dedicate easements to public use without
33 consideration;

34 (10) to enter for any purpose into a lease as lessor or
35 lessee with or without option to purchase or renew for a term within or
36 extending beyond the term of the trust;

1 (11) to enter into a lease or arrangement for explora-
2 tion and removal of minerals or other natural resources or enter into a
3 pooling or unitization agreement;

4 (12) to grant an option involving disposition of a
5 trust asset, or to take an option for the acquisition of any asset;

6 (13) to vote a security, in person or by general or
7 limited proxy;

8 (14) to pay calls, assessments, and any other sums
9 chargeable or accruing against or on account of securities;

10 (15) to sell or exercise stock subscription or conver-
11 sion rights; to consent, directly or through a committee or other agent,
12 to the reorganization, consolidation, merger, dissolution, or liquidation
13 of a corporate or other business enterprise;

14 (16) to hold a security in the name of a nominee or in
15 other form without disclosure of the trust, subject to the provisions of
16 K.S.A. 9-1607, so that title to the security may pass by delivery, but
17 the trustee is liable for any act of the nominee in connection with the
18 stock so held;

19 (17) to insure the assets of the trust against damage
20 or loss, and the trustee against liability with respect to third persons;

21 (18) to borrow money to be repaid from trust assets or
22 otherwise; to advance money for the protection of the trust, and for all
23 expenses, losses, and liabilities sustained in the administration of the
24 trust or because of the holding or ownership of any trust assets, for
25 which advances, with any interest, the trustee has a lien on the trust
26 assets as against the beneficiary;

27 (19) to pay or contest any claim; to settle a claim by
28 or against the trust by compromise, arbitration, or otherwise; and to
29 release, in whole or in part, any claim belonging to the trust to the
30 extent that the claim is uncollectible;

31 (20) to pay taxes, assessments, compensation of the
32 trustee, and other expenses incurred in the collection, care, administra-
33 tion, and protection of the trust;

34 (21) to allocate items of income or expense to either
35 trust income or principal, as provided by law, including creation of
36 reserves out of income for depreciation, obsolescence, or amortization,
37 or for depletion in mineral or timber properties;

1 (22) to pay any sum distributable to a beneficiary under
2 legal disability, without liability to the trustee, by paying the sum to
3 the beneficiary or by paying the sum for the use of the beneficiary either
4 to a legal representative appointed by the court, or if none, to a rela-
5 tive;

6 (23) to effect distribution of property and money in
7 divided or undivided interests and to adjust resulting differences in
8 valuation;

9 (24) to employ persons, including attorneys, auditors,
10 investment advisors, or agents, even if they are associated with the
11 trustee, to advise or assist the trustee in the performance of the trustee's
12 administrative duties;

13 (25) to prosecute or defend actions, claims, or proceed-
14 ings for the protection of trust assets and of the trustee in the perform-
15 ance of the trustee's duties;

16 (26) to execute and deliver all instruments which will
17 accomplish or facilitate the exercise of the powers vested in the trustee
18 ;

19 (27) to invest trust funds in credit unions which are
20 insured with an insurer or guarantee corporation as required by article
21 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

22 Sec. 3. K.S.A. 1982 Supp. 17-5002 and 58-1203 are hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and after
24 its publication in the statute book.

SHORT TITLE: Real Estate Brokers' and Salespersons' License Act;
Authority to Invest Trust Accounts in Insured Credit
Unions.

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

1 Section 1. K.S.A. 1982 Supp. 58-3061 is hereby amended to read as
2 follows:

3 58-3061. (a) Each broker shall maintain, in the broker's name or the
4 broker's firm name, a separate trust account in this state designated as
5 such, in which all down payments, earnest money deposits, advance listing
6 fees or other trust funds received in a real estate transaction by the
7 broker or by the broker's associate brokers or salespersons on behalf of
8 a principal or any other person shall be deposited or invested unless all
9 parties having an interest in the funds have agreed otherwise in writing.
10 The account shall be with an insured bank^{-or} savings and loan association
11 or credit union which is insured with an insurer or guarantee corporation
12 as required by article 22 of chapter 17 of the Kansas Statutes Annotated,
13 and any amendments thereto.

14 (b) Each broker shall notify the commission of the name of
15 the bank, credit union or savings and loan association in which the trust
16 account is maintained and of the account name.

17 (c) Each broker shall grant full access to all records per-
18 taining to the broker's trust account to the commission and its duly
19 authorized representatives. A trust account examination shall be made at
20 such time as the commission may direct.

21 (d) A broker may maintain more than one trust account if the
22 commission is advised of each such account as required in subsection (b)
23 of this section and authorized to examine all such accounts in accordance
24 with subsection (c) of this section.

25 (e) If a broker maintains a separate trust account for any
26 office, the broker shall maintain a separate bookkeeping system in such
27 office.

28 (f) A broker shall not be entitled to any part of the earn-
29 est money or other money paid to the broker in connection with any real
30 estate transaction as part of all of the broker's commission or fee until
31 the transaction has been consummated or terminated unless otherwise agreed
32 in writing by all parties to the transaction.

1 (g) A broker shall make available, for inspection by the
2 commission and its duly authorized representatives, all records relating
3 to the broker's real estate business. Such records shall be kept in a
4 form and for a term prescribed by the commission. Any inspection shall
5 be made at such time as the commission may direct.

6

7 Sec. 2. K.S.A. 1982 Supp. 58-3061 is hereby repealed.

8

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

SHORT TITLE: Funeral Agreements, Contracts and Plans; Authority to Invest Prepaid Burial Plan Monies in Insured Credit Unions.

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

Section 1. K.S.A. 16-301 is hereby amended to read as follows:

16-301. Any agreement, contract or plan requiring the payment of money in a lump sum or installments which is made or entered into with any person, association, partnership, firm or corporation for the final disposition of a dead human body, or for funeral or burial services, or for the furnishing of personal property or funeral or burial merchandise, wherein the delivery of the personal property or the funeral or burial merchandise or the furnishing of professional services by a funeral director or embalmer is not immediately required, is hereby declared to be against public policy and void, unless all money paid thereunder shall be deposited in a bank, trust company or savings and loan association which is authorized to do business in this state and insured by a federal agency, or invested in credit unions which are insured with an insurer or guarantee corporation as required by article 22 of chapter 17 of the Kansas Statute Annotated, and amendments thereto, all as herein provided, and subject to the terms of an agreement for the benefit of the purchaser of said agreement, contract or plan. For the purposes of this act, personal property or funeral or burial merchandise shall include caskets, vaults and all other articles of merchandise incidental to a funeral service, but shall not include grave lots, grave spaces, grave memorials, tombstones, crypts, niches and mausoleums.

Sec. 2. K.S.A. 16-302 is hereby amended to read as follows:

16-302. Except as authorized by K.S.A. 16-308, all such money shall be deposited or invested in such bank, trust company, credit union or savings and loan association and shall be held by such bank, trust company, credit union or savings and loan association in a separate account in the name or names of the purchaser of said merchandise or services and the name of the seller (and the financial institution concerned), until released as herein provided.

1 Sec. 3. K.S.A. 1982 Supp. 16-303 is hereby amended to read as
2 follows:

3 16-303. (a) Except as authorized by K.S.A. 16-308, all payments
4 made under such agreement, contract or plan, and any earnings or interest
5 thereon, shall remain with such bank, trust company, credit union or
6 savings and loan association until the death of the person for whose ser-
7 vice the funds were paid or, except as provided in subsection (c), until
8 demand for payment is made by the purchaser of the merchandise or services
9 to the bank, trust company, credit union or savings and loan association,
10 and upon such payment to the purchaser, the contract shall terminate.

11 (b) At the option of a purchaser, any installment contract
12 may provide for additional payments by the purchaser for the cost of group
13 credit life insurance at such rate as is approved from time to time by the
14 insurance commissioner. In the event of the death of the purchaser, the
15 proceeds shall be treated as funds in accordance with K.S.A. 16-304.

16 (c) At the option of the purchaser, such agreement, contract
17 or plan may be made irrevocable as to the first \$2,000 of the funds paid
18 plus any interest and earnings accumulated under the agreement, contract
19 or plan. This option shall not prohibit the purchaser to designate a dif-
20 ferent funeral home at any time prior to death, after written notice to
21 the current funeral home, and upon such notification all documents and
22 funds shall be transferred as necessary.

23

24 Sec. 4. K.S.A. 16-304 is hereby amended to read as follows:

25 16-304. If any balance remains in said account upon the death of the per-
26 son for whose services the funds were paid, the same shall not be paid by
27 such bank, trust company, credit union or savings and loan association to
28 the person, association, partnership, firm or corporation until the expira-
29 tion of at least five {5} days after the date of death of the person for
30 whose services such funds were paid. Said funds shall not be paid by said
31 bank, trust company, credit union or savings and loan association until a
32 certified copy of the death certificate of such person shall have been
33 furnished to said bank, trust company, credit union or savings and loan
34 association, together with a verified statement setting forth that all of
35 the terms and conditions of such agreement have been fully performed by
36 said person, association, partnership, firm or corporation. If any balance
37 remains in said fund after disposition of the fund in accordance with the

1 terms of said agreement, contract or plan such balance shall inure to the
2 benefit of the estate of the purchaser of said agreement, contract or
3 plan.

4

5 Sec. 5. K.S.A. 16-301, 16-302 and 16-304 and K.S.A. 1982 Supp.
6 16-303 are hereby repealed.

7

8 Sec. 6. This act shall take effect and be in force from and after
9 its publication in the statute book.