

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONSThe meeting was called to order by REPRESENTATIVE HAROLD P. DYCK at
Chairperson3:30 ^{XX} a.m./p.m. on February 23, 1984 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
Mitchell Lousch, Intern
Virginia Conard, Committee SecretaryConferees appearing before the committee: Frank Mosier, State Executive Director, Agriculture Stab-
ilization & Cons.
Steven Flint, Smith County Register of Deeds
James Maag, Kansas Bankers Association
Dee Likes, Kansas Livestock Association
Jamie Schwartz, Secretary of Kansas Economic Development
Jon Josserand, Assistant Secretary of State
Rep. Ken Francisco
Jeffrey Southard, Assistant
Attorney General

Chairman Harold Dyck called the meeting to order and stated that he had received a request from Assistant Attorney General Jeffrey Southard (Letter attached as Attachment I) and Chairman Dyck asked Mr. Southard to present his request in person. Mr. Southard stated he was appearing as Counsel for the Consumer Credit Commissioner as well as Assistant Attorney General. Details of his testimony are in Attachment I.

The chairman pointed out that if the committee wanted to assist in Mr. Southard's request it could be so done as an amendment to HB2650 since the body of that bill has already been included in SB471.

Rep. Larry Wilbert moved that HB2650 be amended to embody the suggestions of Mr. Southard's regarding the Uniform Consumer Credit Code. Rep. Bob Ott seconded the motion. Motion carried.

Rep. Dyck announced that hearings would be held on the amended HB2650 next week.

Chairman Dyck stated that Rep. Robin Leach could not appear today for testimony on his bill, HB2941. The first conferee on HB2941 was Frank Mosier. (See Attachment II). Following questions of Mr. Mosier, the second conferee Steven Flint testified in favor of the bill. (See Attachment III)

Mr. Flint was followed by James Maag who testified against HB2941. (See Attachment IV)
Dee Likes was the second conferee to testify against HB2941. He stated he agreed with the previous conferee's testimony and he would urge the committee not take favorable action on this measure.

Chairman Dyck recognized the several Register of Deeds officials who were attending today's hearing.

Jon Josserand discussed provisions in the proposed HB2941 which would repeal most of the provisions in the 1983 SB7. Mr. Josserand stated that SB7 is bringing much more work for the Secretary of State, which they had anticipated, and that it was going smoother than they had anticipated.

Mr. Jamie Schwartz testified in favor of HB2909 (See Attachment V). He stated that this bill recommends the needed changes for the State Banking Code and "speaking for the administration, we recommend your support of this bill."

Rep. Ken Francisco also testified in favor of the bill. (See Attachment VI.)

There being no more conferees for HB2909, Chairman Dyck then directed the committee's attention to HB2041.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS,
room 527-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 23, 1984

Rep. David Miller moved to report HB2041 favorably for passage. Rep. Larry Wilbert seconded the motion.

Rep. Ken Franciso made a substitute motion to put a conceptual amendment to SB673, thus amending the language of SB673 into HB2041. Rep. David Louis seconded the motion.

Chairman Dyck asked staff member Bill Wolff to give a briefing on SB673.

Chairman Dyck stated, "As chairman I need to make a statement. I am not opposed to SB673 but I am opposed to running my committee through multi-bank holding legislation before the Senate takes up the matter. Therefore, I will not vote on this here to get it out of committee."

Rep. Ken King pointed out that there are two separate issues involved.

In the vote taken on the substitute motion, it failed.

The vote on the original motion to pass out favorably HB2041 passed, with Rep. Dean Shelor recorded as voting against the motion.

Rep. Dorothy Nichols moved that the minutes of February 21, 1984, meeting be approved. Rep. Larry Wilbert seconded the motion. Motion carried.

The meeting adjourned at 4:30 p.m.

The next meeting is Tuesday, February 28, 1984.

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS

NAME	ORGANIZATION	ADDRESS
Jim Maag	KBA	Topeka
Randy Gost	Ks. Co-op Council	"
Becky Genshaw	Comm of Farm Orgs	Topeka
Don Phelps	Cons. Co. Comm.	"
Mel Patton	" " "	"
Carol Beard	Sec of State	"
Jewel Wright	Ks Credit Un Lg.	"
Ed Mullin	Budget	"
Jon Josselmann	sec of State	"
Liever Flint	Leitch Co. R.O.	Smith Center
Doris Farmer	Heaven Co. R.O.	Heavenworth
Rosa Mary Moore	Reno Co. R.O.	Hutchinson
Oliver E. Tolley	Kansas Bankers Assoc.	Topeka
Orta McSlee	Pete McSlee Assoc.	Topeka
Umba Barnhardt	Register of Deeds	Neosho County
Jacqueline Webb	"	Allen County
Mary Ann Hobapple	Register of Deeds	Wemaha Co. - Seneca, Ks.
Jeanette Nespete	Register of Deeds	Crawford Co. - Girard, Ks.
TJ Wilder	KLSI	Topeka
Carol Burkhard	Register of Deeds	Jackson Co. Holton Ks.
Tom Groneman	Register of Deeds Wy. Co.	K. C. K.
John Blythe	Ks. Farm Bureau	Manhattan
Mike Bdam	KLA	Topeka



Attachment I
Southard 3751

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 21, 1984

The Honorable Harold Dyck
Chairman, Committee on Commercial and
Financial Institutions
State Capitol, 115-S
Topeka, Kansas 66612

Re: Amendment to Uniform Consumer Credit Code

Dear Representative Dyck:

As a follow-up to our telephone conversation of yesterday afternoon, I have located two bills which are still in your committee which deal with amendments to the UCCC. Either of these measures, HB Nos. 2420 and 2650, could be altered to include the changes which we would like to have in order to avoid a lawsuit. As I have attempted to rough out on the attached page, these changes would do two things: (1) clarify the intent of the legislature in amending K.S.A. 16a-2-401 in 1982 to allow adjustable rate loans; and (2) allow the commissioner to set (by regulation) the maximum amount of points which can be charged.

Briefly, the situation which has developed concerns a major finance company which has made a number of second-mortgage loans in Kansas with adjustable finance charge rates. This is permitted under subsection (8) of K.S.A. 16a-2-401, which was added in 1982. The company has also charged up to 10 non-refundable points on each loan. This money, which is paid up-front, is essentially loaned to the consumer and then paid immediately back, all at the same time. The result is that the company can advertise itself as offering a lower finance charge (which it does) but with the actual result that the consumer pays the same amount of money. Should the consumer refinance, the points are retained in their entirety by the company, with no refund made. The company bases their position on the wording of subsection (8), which refers to "this section" (i.e. K.S.A. 16a-2-401) as not applying. We feel that only the subsections of that statute which impose a maximum level of finance charge should be affected, not the other, unrelated sections which concern the duty to refund unearned finance charges upon early payment.

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2/23/84

Representative Dyck

Page 2

The second change would codify the ability of a lender to charge points under the UCCC. At present, a lender can do so, but with the requirement of refunding unearned charges upon pre-payment, there really has been no reason to do so. Only with the advent of the non-refundable point theory has the practice become lucrative. The suggested limit, 3 points, is a workable one, and is toward the top charged by other lenders, such as banks.

The passage of this legislation would avoid what appears at this time to be a certain lawsuit, either by the state or the large finance company. They have agreed to refrain from charging any more points until the end of the session, so we have some breathing room, if only a little. Given the trouble that SB 472 is in, I feel that it is imperative that at least this change be implemented, hence my call to you.

Thank you for your generous consideration, and if I can be of further help, please let me know.

Very truly yours,



Jeffrey S. Southard
Assistant Attorney General

JSS:js
Enclosure

K.S.A. 16a-2-401(8) --

Subsections 1, 2 and 9 of 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. [Underscored new].

New subsection (10) --

A lender shall not contract for or receive a non-refundable prepaid finance charge, except as permitted by rules and regulations adopted by the commissioner. Such rules and regulations may permit the lender to contract for and receive a nonrefundable origination fee of up to, but not to exceed, 3% discounted from the amount financed.

ASCS COMMODITY LOANS

I Non-recourse Loans Using Farm-stored or Warehouse-stored Grain as Security Can Be Issued to Farmers Participating in the Applicable Commodity Programs.

- A Farm-Stored Grain Loans - Issued on up to 90% of the certified quantity of grain or up to 100% of measured quantity at an established county loan rate.
- B Warehouse-Stored Grain Loans - Issued on 100% of the quantity shown on the warehouse receipt.

II Basic Requirements

- A Grain must be in storable condition.
- B Commodity Credit Corporation must have first lien on any grain accepted as collateral for the loan.
- C Eligibility for loans is limited to participants in applicable commodity programs.

III Central Filing System

A Advantages

- 1 Central source for filing of Security interests and for processing of requests for lien searches.
- 2 Elimination of the need to be concerned about possible UCC-1s filed in adjoining counties or other counties where farmer may have farming interest (after transition period).

B Disadvantages

- 1 Delay in processing loans (primarily due to postal delivery time).
 - a Secretary of State's Office has been processing requests on a 1½ to 2 day turnaround from date of receipt.
 - b Options currently under consideration should alleviate this problem in part.
- 2 Increase in cost to process commodity loans.

Estimated annual expense per year under central filing to Commodity Credit Corporation is \$175,000 based on an estimated 20,000 loans in 1984. The comparable expense under the previous system is estimated at \$25,000. The basic cost was for filing of UCC-1s on farm-stored grain. Minimal costs were incurred for lien searches through the office of the County Register of Deeds.

IV General Factors Necessitating Lien Searches and Filing of UCC-1s to Protect Commodity Credit Corporation Interests

- A Farm bankruptcies have resulted in CCC absorbing additional losses on commodity and farm storage facility loans in cases where a first mortgage or lien waiver has not been obtained.
- B Farmers are not aware that a security interest may be outstanding on their grain at the time they apply for a loan.

Chairman Dyck and Honorable Committee Members:

My name is Steven Flint, Register of Deeds from Smith County

I am speaking on behalf of the Kansas Register of Deeds Association in support of HB 2941.

SB7 concerning UCC filings was enacted into law in 1983 and became effective January 1, 1984. It has been very beneficial to the bankers, grain dealers and livestock dealers insomuch as it provided for central filing of financing statements using farm products as collateral.

Unfortunately the effects of SB7 are just now beginning to surface. Not all members of the above mentioned groups were truly aware of the costs involved or the loss of local access to the information contained in the filings.

We feel that our organization's concerns with SB7 are being addressed in HB2941, as it provides for the dual filing of financing statements and related statements.

The effects of SB7 have been felt in counties across the state. I would like to explain some of these effects which I have observed in my office, which is in a rural county. Farm filings represented 80% of the UCC activity in my office. Last year UCC activity made up 20% of the gross revenue in my office. This year to date the UCC filing fees only account for 9% of the gross revenue. This bill would return these much needed filing fees to the county.

Yesterday I completed a UCC search for a grain dealer involving one name and 23 listings. The cost to this dealer was \$26.00. If the same search would have been performed using the telecopier in the Secretary of State's office the cost would have been \$56.00, of which my office would have kept only \$2.00.

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My office is one of approximately 25 counties which have purchased telecopiers in an effort to provide local access to the filings in Topeka. This leaves 80 counties with no direct communication with the Secretary of State and only written searches can be obtained by secured parties in those counties.

If this bill were passed counties having telecopiers could use them to transmit their daily work to the Secretary of State's office and to receive from them the filings already on file.

The present law has greatly hampered the local availability of information on agricultural filings. Most farm filings are between local lenders and farmers and the need for this information is primarily in the local community.

This bill would serve those who need both local access as well as access to a central file and do so at a more reasonable cost to the searching parties.

This bill would reduce the burden of searches by the Secretary of State because most would be done by the Register of Deeds. Very few parties have a need for a central search but they are having to pay exorbitant fees to obtain information which had previously been available free or a very low cost.

Presently many of the lenders are dual filing with the Register of Deeds to provide public notice and to have the information available locally.

A cross section of the Register of Deeds are present here today and would be happy to answer any questions.

Thank you very much for your time and consideration on HB 2941



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 23, 1984

TO: House Committee on Commercial and Financial Institutions

RE: HB 2941

Mr. Chairman and members of the committee:

We appreciate the opportunity to appear before the committee on the provisions of HB 2941 which would repeal most of the provisions of SB 7 as passed by the 1983 session of the Kansas legislature. SB 7 made a major change in the method of filing financing statements under the Uniform Commercial Code for all collateral relating to "farm products".

The main thrust of SB 7 as it was proposed by a 1982 Special Interim Committee and considered by the 1983 session was to create a more practical way for any creditor, feedlot cattle operator, or grain dealer to quickly check on existing financing statements in only one place. It was designed to eliminate the need to check in several counties which was necessary in many instances under existing UCC law. The need for creditors to be able to check quickly on financing statements relating to farm products has increased in recent years because of wider movement of farm products seeking the best market. The deregulation of trucking and rail lines has encouraged farmers to haul products many miles for better market prices. Thus, the task of creditors, feedlot operators, grain dealers, etc. has been complicated by the fact that they may be dealing with individuals who are not long-time customers in their areas and therefore, the credit background may not be as well-known. Thus, there is a need to be able to quickly check in one centralized location as to whether there are any existing liens on the farm products that are to be sold.

The provisions of SB 7 created a central filing system for the financing statements on farm products like that which has existed for all financing statements on inventories in Kansas for many years. The act further required that all financing statements relating to farm products be filed with the Secretary of State starting on January 1, 1984 and that by January 1, 1986 that office would provide telephone search service for inquiries on filings. In the period between 1984 and 1989 as financing statements involving farm products expired at the local level and were renewed at the Secretary of State's office, it will be necessary for creditors and others to check with both the Secretary of State and the county of the debtor's residence in order to be totally assured that a financing statement for a particular individual does or does not exist. By July 1, 1989, all financing statements filings relating to farm products will have been moved to

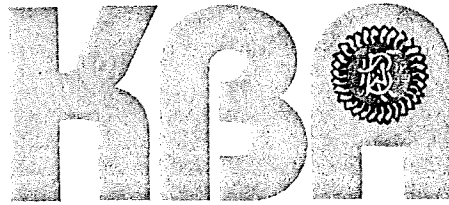
House Committee on Commercial and Financial Institutions
February 23, 1984
Page Two

the Secretary of State's office and a total central filing system will have been accomplished.

The provisions of HB 2941 would destroy the positive aspects of the central filing system created by SB 7. It would require filings to once again be made at the local level with information being sent back and forth between the Register of Deeds and the Secretary of State. The only practical effect of this legislation would be to enormously complicate the legal standing of thousands of financing statements and to confuse the issue as to where a financing statement relating to farm products should be filed. To reverse the major revision which were made in the Uniform Code less than a year ago before the new system has even had an opportunity to work would create real havoc with farm creditors and with those businesses that are engaged in the sale of farm products. We, therefore, Mr. Chairman, request that the committee take no action on HB 2941 this session.

James S. Maag
Director of Research

ljs



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

COMPLIANCE • LEGAL • LITIGATION CENTER

"Any man who will look into his heart and honestly write what he sees there, will find plenty of readers."

TO: All Kansas Banks
FROM: Anne E. Lolley, Staff Attorney & Director of CLLC
DATE: November 1, 1983
RE: Central Filing of Financing Statements Covering Farm-Related Collateral

Questions and Answers Relating to
New Laws Requiring Central Filing of
Financing Statements Covering Farm-Related Collateral

1. Is there a change in the law which governs the filing of financing statements covering farm-related collateral?

Yes. In 1983 the Kansas legislature amended the Uniform Commercial Code so that financing statements covering farm-related collateral will be filed with the Office of the Secretary of State instead of the Office of the Register of Deeds. This change will not become effective until January 1, 1984, and until that time bankers must continue to file financing statements covering farm-related collateral with the Office of the Register of Deeds.

2. Does the change affect only financing statements covering "farm products?"

No. It affects financing statements covering all farm-related collateral, including: (1) equipment used in farming operations, (2) accounts or general intangibles arising from or relating to the sale of farm products by a farmer, and (3) farm products.*

*Goods are "farm products" if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in fattening, grazing, or other farming operations.

3. Once the UCC amendment becomes effective on January 1, 1984, what is the proper place to file financing statements covering various types of collateral?

If the collateral is consumer goods, then a financing statement covering those goods must be filed in the Office of the Register of Deeds in the county of the debtor's residence (or if the debtor is not a resident of the state then in the Office of the Register of Deeds in the county where the goods are kept).*

Financing statements covering all other types of collateral must be filed in the Office of the Secretary of State. This category of collateral includes, but is not limited to, the following:

1. Equipment (even if used in farming operations),
2. Inventory,
3. Documents,
4. Instruments,
5. General Intangibles (even if arising from or relating to the sale of farm products by a farmer),
6. Chattel Paper,
7. Accounts (even if arising from or relating to the sale of farm products by a farmer), and
8. Farm Products.

4. What happens to farm-related financing statements already filed with the Office of Register of Deeds (or filed with the Office of the Register of Deeds prior to January 1, 1984)?

The law provides for a five-and-one-half-year period of time which will gradually transfer all farm-related financing statements from the Office of the Register of Deeds to the Office of the Secretary of State. This will be accomplished by the use of a special continuation statement called a "transition filing."

*If collateral is timber to be cut or minerals or fixtures, the financing statement covering these types of collateral must be filed in the office where a mortgage on the real estate would be filed or recorded.

5. Exactly how will the transfer of farm-related financing statements be accomplished?

As you know, financing statements lapse after five years unless the bank files a continuation statement within six months prior to the lapse date. After January 1, 1984, and before July 1, 1989, any continuation statement pertaining to a financing statement covering farm-related collateral (such financing statements being currently on file with the Office of the Register of Deeds) will be subject to special rules. During that five-and-one-half-year period of time, there will be a special type of continuation statement called a "transition filing." The "transition filing" will be filed in the Office of the Secretary of State (as opposed to the Office of the Register of Deeds), and will transfer the financing statement from the Office of the Register of Deeds to the Office of the Secretary of State. At the end of that five-and-one-half-year period of time, the bank, by reacting to the potential lapse of its various Register-of-Deeds-filed financing statements, will have transferred all its farm-related filings from the Office of the Register of Deeds to the Office of the Secretary of State.

6. Just what is this "transition filing?" How does it differ from a regular continuation statement?

The "transition filing" has the following characteristics:

- (1) The basic document is similar to a financing statement;
- (2) It may be signed by either the secured party or the debtor; and
- (3) The document must be accompanied by:
 - a. A carbon, photocopy or other suitable reproduction of the most recent effective prior financing statement on file with the Register of Deeds and evidence of its proper filing; and
 - b. A statement that the prior financing statement is still effective.

The filing of these documents will create the "transition filing" necessary to (1) continue the filing and (2) transfer the filing from the Register of Deeds to the Secretary of State. The Office of the Secretary of State has designed a special "transition filing" form which will incorporate the required information, and this form will soon be available from various form companies.

7. Does the "transition filing" affect the bank's priority status?

Assuming the transition filing is appropriately made (within six months prior to the scheduled lapse date of a financing statement), the priority of a perfected security interest in farm-related collateral will continue, uninterrupted from the date on which the original financing statement was filed with the Register of Deeds.

8. Does the "transition filing" affect the normal five year lapse date?

Yes. The filing of an ordinary continuation statement (as opposed to a transition filing) will extend the effectiveness of the original financing statement for an additional five years from the date on which it was scheduled to lapse. The filing of a "transition filing," on the other hand, will continue the effectiveness of the original financing statement for five years from the date on which the transition filing was filed with the Office of the Secretary of State.

9. What if a particular loan is secured by different types of collateral and several financing statements relating to that loan are on file in two or more counties?

Where two or more financing statements relating to the same loan exists, the multiple filings may be consolidated into a single filing in the Office of the Secretary of State. To consolidate these filings, a "transition filing" may be filed at any time within six months before the effectiveness of any one of the various financing statements will lapse. Where such a transition filing is filed with the Secretary of State, all financing statements consolidated in that transition filing will lapse five years from the date on which the consolidated transition filing was filed with the Secretary of State.

10. After January 1, 1984, then, can a bank simply check with the Secretary of State to see if a debtor has already given a security interest to another lender?

No. From January 1, 1984, to July 1, 1989, financing statements covering farm-related collateral will be found either in the Office of the Register of Deeds (if the original filing statement has not yet lapsed) or with the Office of the Secretary of State (if the original filing statement has lapsed and the lender has filed a "transition filing"). Thus, a lender searching the public records for notification of an existing security interest must search in both the Office of the Register of Deeds and in the Office of the Secretary of State.

11. Suppose a financing statement covering farm-related collateral is scheduled to lapse on January 10, 1984. Can the bank file a transition filing with the Office of the Secretary of State prior to January 1, 1984?*

No. The law covering transition filings (the special continuation statement for financing statements covering farm-related collateral and now filed with the Office of the Register of Deeds) is not effective until January 1, 1984. Any transition filing mailed to the Office of the Secretary of State prior to that time will not be effective to continue the original financing statement.

Note, however, that a bank may file a transition filing any time within six months prior to the scheduled lapse date of the original financing statement. Thus, in the above situation (where the original financing statement will lapse on January 10, 1984), the bank will have two options by which it may continue the original financing statement covering farm-related collateral (and currently on file with the Register of Deeds):

- a) The bank may file an ordinary continuation statement with the Office of the Register of Deeds prior to January 1, 1984. The filing of the continuation statement would continue the original filing until January 10, 1989, at which time the bank would then be required to file a transition filing with the Office of the Secretary of State (to further continue the filing and to transfer the filing to the Office of the Secretary of State).
- b) The bank may wait until January 1, 1984, and file a transition filing with the Office of the Secretary of State. Where the lapse date occurs so soon after January 1, 1984, the bank should prepare and mail the transition filing several weeks early and accompany that filing with a letter explaining that the transition filing must be filed between January 1, 1984, and January 10, 1984. This filing would (1) continue the perfection of the original financing for five years (from the date of the transition filing) and (2) transfer the filing to the Office of the Secretary of State.

*This question uses the January 10, 1984 date as an example. The answer following this question is applicable to any financing statement (covering farm-related collateral) which is scheduled to lapse between January 1, 1984 and July 1, 1984.

12. How will banks obtain information concerning financing statements filed with or transferred to the Office of the Secretary of State?

Information regarding Secretary-of-State-filed financing statements (including financing statements transferred to the Office of the Secretary of State by virtue of transition filing) may be obtained in one of the following ways:

- a) The bank may request information by a letter to the Office of the Secretary of State.
- b) In counties where the Office of the Register of Deeds has a telecopier machine, information may be requested from that office. The requested information will then be telecopied from the Secretary of State's Office back to the Office of the Register of Deeds. State law requires that an additional fee of \$5.00 must be charged for this telecopier service, plus \$2.00 per page for any additional telecopied information.
- c) The bank may send a representative or agent directly to the Office of the Secretary of State to request information. KBA is currently planning to provide bankers with a service whereby a KBA staff person would act as a bank representative to personally obtain requested information within a short period of time. For more information regarding this matter, bankers should refer to a KBA memorandum dated October 27, 1983, regarding a KBA lien search service.

AEL/jd

A. Hachment

TESTIMONY BEFORE THE
HOUSE COMMERCIAL AND FINANCIAL INSTITUTIONS COMMITTEE

H.B. 2909

February 23, 1984

Charles J. Schwartz, Secretary
Kansas Department of Economic Development

Atch. V
2/23/84

KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

503 Kansas Avenue, Sixth Floor, Topeka, Kansas 66603

Phone (913) 296-3481



JOHN CARLIN
Governor

CHARLES J. "Jamie" SCHWARTZ
Secretary

Mr. Chairman and Members of the Committee:

In September of 1983 the Governor's Task Force on High Technology Development released a report entitled, Advanced Technology Formula for Kansas. Under the area of Business Climate there were several recommendations grouped by area of responsibility and suggested time frame for implementation.

One of these recommendations addressed the State Banking Code (K.S.A. 9-1101(9)). The task force recommended the State Banking Code be revised to allow State Chartered Banks to:

1. Take equity positions in more than one Small Business Investment Company (SBIC) and,
2. Be permitted a greater degree of capital investment in SBIC's than is presently allowed.

Kansas banking codes prohibit the holding of shares by state chartered banks in more than one SBIC. The provision also restricts to 1% of its total capital and surplus, a state bank's investment in one SBIC. The Task Force was concerned that in an era of national banking deregulation state chartered banks are unduly restricted in the equity positions they may hold, a circumstance which inhibits capital formation and availability. Federal banks and savings and loan institutions are not bound by this Kansas banking regulation.

This recommendation, although made by the High Tech Task Force, really speaks to capital formation availability to small businesses. The task force recommended the State Legislature should take responsibility for implementing this change in a 1-3 year time frame. The Legislature should be commended for

addressing this matter within a six month period. This change will not be the answer for all small businesses, but it certainly could provide additional access to capital to be used in the competitive arena of economic development.

The state must play a major role in stimulating entrepreneurship by providing avenues for business expansion. This includes supporting and encouraging investment in small business.

H.B. 2909 has recommended the appropriate changes be made to the State Banking Code (K.S.A. 9-1101(9)), and I urge your support.

SMALL BUSINESS INVESTMENT COMPANIES (SBIC)

To make equity and venture capital available to the small business community and to socially and economically disadvantaged enterprises.

KANSAS VENTURE CAPITAL, INC.

The Kansas banking community and Kansas Development Credit Corporation (KDCC) have formed Kansas Venture Capital, Inc., a Small Business Investment Company (SBIC). An SBIC is a privately owned, for-profit financing device for providing debt/equity capital to small business. Funds can be used for such needs as working capital, purchase of equipment, debt restructuring, business expansion, and acquisition of shareholder or partner interest.

Contact: George L. Doak, President
Kansas Venture Capital, Inc.
First National Bank Towers
One Townsite Plaza, Suite 1030
Topeka, KS 66603
(913) 233-1368

MINORITY ENTERPRISES SMALL BUSINESS INVESTMENT COMPANY

Central Systems Equity Corporation is a Minority Enterprise Small Business Investment Company (MESBIC), a privately owned, for-profit financing device for providing debt/equity capital to qualifying minority entrepreneurs. Funds can be used for such needs as working capital, purchase of equipment, debt restructuring, business expansion, and acquisition of shareholder or partnership interest.

Contact: Clarence Wesley, President
Tony Hardrick, Senior Vice-President
Central Systems Equity Corporation
1743 North Hillside
Wichita, KS 67214
(316) 683-9004

R. W. ALLSOP CAPITAL CORPORATION

R. W. Allsop Capital Corporation has been formed for the purpose of operating as a federally licensed small business investment company (SBIC) and is wholly owned by R. W. Allsop & Associates. Investments made by this entity will usually be structured as interest bearing subordinated debentures with equity features. Investments will be made in companies which have sufficient cash flow to service their debt and the ability to enhance equity values.

Contact: Larry C. Maddox, General Partner
R. W. Allsop & Associates
Suite 244, 35 Corporate Woods
9101 West 110th Street
Overland Park, KS 66210
(913) 642-4719

HB2909
(SMALL BUSINESS INVESTMENT CORPORATIONS)

At present banks may invest in only one SBIC. In addition they may invest only 1% of their total assets in that SBIC.

This bill would allow banks to invest in more than one SBIC and allow them to invest up to 3% of their total assets.

This bill is not just a boom to the banking industry. It is true that banks will benefit but the primary purpose of this bill is to provide more available capital for those small businesses around the state that need money but are having trouble securing it.

Business means jobs, and the easier it is to secure the capital necessary to start up a small business the better it will be in terms of jobs and the overall economy in Kansas. The United States Small Business Association has endorsed the development of SBIC's because they represent an important aspect of economic development and potential growth in employment opportunities.

Small Business Investment Company (SBIC) Overview

SBIC's are developed to make available the equity or venture capital necessary to start up small businesses.

SBIC's are licensed through the Small Business Association (SBA). It requires that 25 people or investment entities provide a minimum of \$500,000.00 total as start up capital.

At present only 2 SBIC's are licensed for Kansas

- 1.) Kansas Venture Capital
 - 2.) Central Systems Equity Corporation
- (Note: There are others but they are licensed with other states but have branch offices in Kansas.)

Under SBA guidelines, licensed SBIC's may borrow (from the SBA) money to lend to small businesses.

For every one dollar that is invested by private sources (i.e., banks, individuals, corporations) the SBIC may borrow three dollars from the Small Business Association. (Ex. SBIC has one million in private investment they can then borrow three million from the Small Business Association.)

Rep. Kenneth Francisco

Attch. VI
2/23/94