

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONSThe meeting was called to order by Sen. Neil H. Arasmith at
Chairperson9:00 a.m. ~~p.m.~~ on January 25, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Hess and Harder - Excused

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Jim Turner, The Kansas Association of Savings Institutions
Paul Rasor, Professor of Consumer Finance
Stan Lind, Kansas Association of Finance Companies

The minutes of January 24 were approved.

The chairman began by calling attention to the written testimony of Jeffrey Southard, Assistant Attorney General, on SB 472 which had been distributed to each committee member. (See Attachment I.) Mr. Southard had not had a chance to be heard on January 24 and could not appear at this meeting due to other commitments.

The chairman called on Jim Turner, The Kansas Association of Savings Institutions (formerly Kansas Savings and Loan League), to present his request for the introduction of a bill which would have identical language as in SB 523 applying to banks but would apply to savings and loan institutions rather than to banks. (See Attachment II.)

Sen. Pomeroy made a motion that the bill be introduced and referred back to committee. Sen. Gordon seconded the motion. The motion carried.

The chairman announced that the hearings on this bill and SB 523 would be held on January 31.

Paul Rasor, Professor of Consumer Finance, began his testimony as had been requested by Sen. Feleciano as to the effects of the proposed provisions in SB 472. He went through each of the proposed amendments with the committee giving particular attention to those which he feels need further consideration.

Mr. Rasor suggested that lines 103-107 could be deleted because the transactions involved no longer take place. On line 340, he suggested that a comma be placed after "designation". Regarding lines 419 through 425, he noted that he finds it difficult to accept the use of a percentage to define the cut off for second mortgages for small loans. Also, he feels the following new subsection (2) is in need of clean-up for clarification. With regard to line 739 dealing with requiring the consumer to request a receipt, Mr. Rasor feels that the receipt should be given as routine practice by the creditor rather than by request only. Mr. Rasor said in regard to the provisions on line 775 that credit insurance is not needed by the consumer to cover precomputed finance charges. He commented further that the language found on line 957 is interesting because it does not correspond to any other "wild card" language. The chairman explained that the theory here was that although this language had not been needed thus far, it was felt that it would do no harm to give the authority if needed. Mr. Rasor continued by saying that Section 17 has serious constitutional problems in that it violates the first and fifth amendments. He assessed Section 18 as being strangely worded. He stated that the origination fee is a finance charge under the Truth-in-Lending law and that the wording in Section 18 may lead to problems rather than a solution for lenders. He added that it was not clear to him if it is necessary to authorize buy downs as contained in subsection (2). He feels that this could create a disclosure problem. The chairman explained that this is a grey area and that the theory behind subsection (2) was that it should be spelled out since it was not defined in current statutes. Mr. Rasor's final comments dealt with the removal of the balloon

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on January 25, 1984

payment section from the code which he said would only affect small loans. He felt the committee may need to review this section as to the original purpose of the UCCC.

The chairman called on Stan Lind, Kansas Association of Finance Companies, to complete his testimony on SB 472 which had been continued from January 24. (See Attachment III, page 2.) Before continuing his testimony, Mr. Lind felt he should review his testimony of the day before in regard to the comments made by Mr. Razor concerning the "wild card" provision. Mr. Lind concluded that if one creditor is able to charge a rate, then all should be allowed that rate. Upon completion of his testimony, Mr. Lind answered committee questions regarding the effect the bill would have on finance companies. Mr. Lind stated that if no improvements are made to help generate income for finance companies, there will be withdrawal of more of these businesses which would affect the necessitous borrower.

The chairman referred SB 472 as well as SB 547 to the Banking Subcommittee consisting of Senators Werts, Pomeroy, and Feleciano.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
1-25-84	John Spurgeon	Lawrence	V. Budget
"	Jerel Wright	Topeka	KCLL
"	Marvin Umholtz	"	"
"	Jim Turner	Topeka	KLSI
"	Tom Wilder	"	KLSI
"	Paul Rasor	Topeka	(Invited as expert)
"	Stan Lind	KCK	KAFK
"	Tom Reagan	Topeka	KAFK
"	Don Phelps	LAWRENCE	CONS. CR. COMM.
"	Mel Batten	Topeka	" " "
	Tom Wooten	Topeka	WICHITA Eagle-Beacon
	M. Hoover	"	Capital-Journal

STATEMENT OF ASSISTANT ATTORNEY
GENERAL JEFFREY S. SOUTHARD TO
THE SENATE COMMITTEE ON COMMER-
CIAL AND FINANCIAL INSTITUTIONS

RE: 1984 Senate Bill No. 472

DATE: January 24, 1984

On behalf of Attorney General Stephan, I would like to thank the committee and its chairman for this opportunity to comment on the provisions of 1984 Senate Bill No. 472. In addition to serving as legal counsel for the Consumer Credit Commissioner's office, the attorney general's office also received complaints and inquiries from the general public about credit-related matters through our Consumer Protection Division. In that I serve in both such capacities, I have been able to have some input in the past months as the Special Committee on Commercial and Financial Institutions has considered the interim study on the Uniform Consumer Credit Code. I would like to comment today on some, but by no means all, of the numerous changes that this measure proposes.

First, we are pleased to see that portions of the bill address some concerns which we raised during the summer months before the interim committee. I refer specifically to the following:

- (1) Inclusion of a definition of seller credit card (page 9). This will help avoid the situation which I explained last summer before the interim committee, whereby a seller credit card (like Penny's or Macy's) is disguised as a lender credit card. This has the effect of allowing the interest rate of the state where the card is issued to be imported into Kansas, even if the card is good only

Attachment I

- at one merchant. True seller cards must use the rates set by the Kansas UCCC. This remedies a hole left in Kansas law since the adoption of the Code in 1973.
- (2) Prohibiting pre-paid finance charges. (p. 11, 14).
 - (3) Defining "closing costs" as including fees paid to a third party, not related to the lender. (p. 2). This matter was the subject of an Attorney General's opinion, as well as a pending lawsuit. This change would make what we believe the intent of the Code clear.
 - (4) Increased powers for the Commissioner in the area of sales finance companies. (p. 27-28).

However, I would also state that this bill needs to be strengthened in two other areas. Most important of these is on page 19, where K.S.A. 16a-3-204 is amended to allow a period of 45 days before terms can be changed in a consumer credit agreement. While this is an improvement from the 30 days which has existed, it is a far cry from the the 6 months which previously existed before the credit crunch of the early 1980's. We would propose the inclusion of an additional provision to the effect that any change in interest rates be effective only as to items purchased after the effective date of the change. The neighboring Code state of Iowa has had this provision for a number of years (Iowa Code §537.3205), so that it is clearly possible from a technical standpoint, in addition to undoubtedly being fairer to consumers.

I would also recommend against one other change which is of a fairly minor nature. On page 20, K.S.A. 16a-3-205(1) is amended to allow a creditor to send a receipt for each payment

only upon the request of the consumer. This is a change from the current law, where such statements must be sent regardless. In our experience, a consumer will not ordinarily request receipts, which are only useful in the event of a problem later on, where payment may be questioned. Since no one anticipates trouble, if there have been no receipts sent, a consumer may be left with no proof of his or her payment.

Finally, as regards the special powers given the Commissioner (on pages. 26-27) to adjust finance charge rates, I would suggest that language be added to specify that he may act after making findings of some sort that other lenders are able to charge a higher rate. The measure probably infers this, but it should be more clearly set out.

AN ACT relating to savings and loan associations; concerning remote service units; amending K.S.A. 1983 Supp. 17-5565 and repealing the existing section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

Section 1. K.S.A. 1983 Supp. 17-5565 is hereby amended to read as follows: 17-5565. Subject to such prohibitions, limitations or conditions that the commissioner may prescribe by rules and regulations, any savings and loan association, individually or jointly with other savings and loan associations, may provide and engage in financial transactions by means of remote service units wherever located anywhere within the state of Kansas or any other state, if that state shall accord equal rights to associations located in that state to engage in financial transactions by means of remote service units located in the state of Kansas. Such remote service units shall not be considered to be branch offices or agencies. Any financial transaction effected by use of a remote service unit shall be deemed to be transacted at the savings and loan association to which the information is transmitted for entry into a customer's account. No foreign savings and loan association shall operate a remote service unit in the state of Kansas unless the state in which it is chartered shall allow associations chartered by the state of Kansas to operate remote service units in its state. The operation of a remote service unit by a foreign association shall be subject to such prohibitions, limitations and conditions that the commissioner may prescribe by rules and regulations.

Section 2. K.S.A. 1983 Supp. 17-5565 is hereby repealed.

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

Statement on S.B. 472
by
Stanley L. Lind,
Counsel & Secretary
of the
Kansas Assn. of Finance Cos.
before the
Senate Commercial & Financial Institutions Committee
January 24, 1984

Attachment III

Mr. Chairman and Members of the Committee:

I am Stanley L. Lind, Counsel & Secretary of the Kansas Assn. of Finance Cos., the state trade association for consumer finance companies in Kansas. I appear here upon behalf of our members to endorse S.B. 472 and to urge its enactment.

The last few years have not been considered very good years for finance companies in Kansas. 1981 resulted in a combined loss of one million dollars for all finance company licensees and the closing of 104 offices. 1982 resulted in a combined loss of approximately one-half million dollars for all finance company licensees. While the report for 1983 is not yet in, my prediction is that we will see the first black ink in three years time, upwards to around one-half million dollars.

While our association endorses the enactment of S.B. 472, I will direct my remarks to those provisions which are of more immediate concern to us.

On page 16, subsection (3), contains an amendment which would permit creditors to be reimbursed for charges that are imposed upon them by their banks for insufficient fund checks which have been given to them by their customers. While this proposal provides for reimbursement of actual charges, we would like this to be amended on line 0570 by adding after the word "exceed" the words

"the sum of \$5.00 or"

for the reason that multiple office companies can not program more than one charge for such an item -and- they would rather charge less than actual costs - than not be reimbursed at all.

On page 26, subsections 7(a) and (b), provides for the privilege for all supervised lenders to be able to compete on the same level playing field.

Today - banks, S & L's and credit unions all have specific statutes permitting them to have parity with other lenders in the event that one is permitted to charge a certain rate not otherwise permitted by Kansas statute.

response to Mr. Rasor

For example in 1981-82 the federal credit unions were permitted to charge 21% on their loans, when the alternative rate in Kansas was 18%. Because of a parity statute for state credit unions, they were also permitted to charge the 21% rate. Because of the nature of other federal statutes, national banks could then have made the same charge -and- then state banks could have followed in tandem.

What this proposal would do - is permit any supervised lender in Kansas, to charge any rate that is permitted another lender in Kansas. Specifically, if a credit union could charge 21%, then upon the Consumer Credit Commissioner issuing a special order, consumer finance companies could also charge 21%.

The last section I would like to discuss is New Section 18 on page 28. This is a provision pertaining to second mortgage loans, which have become increasingly important to consumer finance companies as a source of business. The table below illustrates this fact.

<u>Year</u>	<u>Dollar Amount Loans Made</u>	<u>Percentage That Are \$5000 or More</u>
1978	253 Million	39.06%
1979	280 "	39.68%
1980	225 "	47.41%
1981	217 "	50.48%
1982	194 "	49.27%

Another new feature about the second mortgage field is that these mortgages are now being purchased in the secondary market. In order to be eligible for sale to the secondary market - the lender has to:

- a - pay a one percent origination fee
- b - furnish a mortgage insurance policy against the debtor's default
- c - furnish a title policy.

The new provisions of this proposal are that it would authorize charging a 3% origination fee and for a debtor's default policy.

On an overall basis - the borrower is helped because he is able to get a loan at a rate lower than he otherwise would because of the secondary market and the insurance policy against loss by default. Because of this, these are costs which should be borne by the borrower.

The difference between the 1% charge by the secondary market and the 3% provided by this proposal -is- the profit which the lender would receive for making the loan. On \$10,000, this would be \$200.

Other justifications for the use of an origination fee for real estate transactions are:

- a - they have been traditionally used and charged to compensate the lender for the multitudinous paper work connected with real estate transactions.
- b - they are needed to help compensate the lenders for its acquisition costs when there is an early pay-off by the borrower.
- c - an origination fee permits the lender to take into income a fee upon the conclusion of the transaction to coincide with the period of time to the lender when it suffers its greatest expense in connection with any one real estate loan.

To illustrate the market conditions on origination fees in the Kansas City area, I have attached a photocopy to show these. These are fees on first mortgages -and- they run from 1% to 5% - all on amounts greatly exceeding the average second mortgage loan.

I appreciate the opportunity to review these proposals with you - and - would be glad to answer any questions.

MARKETPLACE

INTEREST RATES

	Prime	Mortgage Rate		Mortgage Rate
Centerre Bank of Kansas City	11	Loans up to 80 percent, ratio 30-year maturity, 13.75 percent and 2 percent origination fee. Fifteen-year amortization, 13.50 percent and 2 percent origination fee.		2 percent origination fee; 3-year, 11.50 percent and 2.5 points discount or 12.25 percent and 2 percent origination fee; 5-year, 13.25 percent and 2 percent origination fee. All with 5 percent cap and 5 percent down. VA, 12.50 percent, call for discount.
Commerce Bank of Kansas City	11	Loans up to 95 percent, ratio, 13.50 percent and 3 percent origination fee. Thirty-year amortization maximum FHA and VA loans 12.50 percent and 4 points and 1 percent origination fee. One-year ARM, 12.00 percent with 2 percent origination fee and 12.50 percent with no origination fee.	Capital Federal Savings & Loan	Thirty-Year adjustable, 1-year, 11.50 percent; 3-year, 12 percent; 5-year, 12.50 percent. All have 2 percent origination fee, a maximum yearly change of 1 percent and a maximum lifetime change of 5 percent. Fixed rate, 13.75 percent and 2 percent origination fee with 30-year amortization; 13.25 percent and 2 percent origination fee with 15-year amortization. Assumption, 12.5 percent and 1 percent transfer fee.
Commercial National Bank of Kansas City, Kansas	11	For customers, 13.50 percent plus 1.5 points. Three-year balloon and 25-year amortization maximum.		Fixed rate, owner occupied, 14 percent, 2 percent origination fee and 30-year amortization. Adjustable loans, 1-year, 11.625 percent; 3-year, 12 percent; 5-year, 12.875 percent. All with 2 percent origination fee and 30-year amortization.
First National Charter Bank of Kansas City	11	One-year adjustable, 10.75 percent with 10 percent down; thirty-year amortization maximum, and 2.5 percent origination fee. Thirty-year fixed rate, 13.425 percent with 5 percent down payment and 2.5 percent origination fee. Adjustable loans: 3-year, 12.00 percent and 5-year, 13.4 percent. Thirty-year amortization maximum and private mortgage insurance required for less than 20 percent down.	Century Savings Association of Kansas	One-year adjustable, 9.875 percent with 10 percent down. Three-year adjustable, 12.875 percent with 5 percent down and convertible to a fixed rate at no cost. Fixed rates, 30-year, 13.25 percent and 15-year, 13.125 percent, both with 5 percent down. Investor loans, 3-year, 13.00 percent with 10 percent down or 90 percent L.T.V. FHA and VA loans at market rates. Jumbo loans available to \$500,000.
Kansas City Bank & Co.	11	Not actively soliciting mortgage loans. Will consider requests from existing customers with adequate margins.	CMSC Mortgage Co.	Adjustable loans, 1-year, 10.50 percent plus 2.25 percent origination fee or 9.50 percent plus 3.25 percent origination fee with a maximum change of 6 percent maximum and 3-year, 11.75 percent with 2.25 percent origination fee or 10.75 plus 3.75 percent origination fee and a maximum change of 5 percent. FHA and VA loans, 12.50 percent with 1 percent origination fee and 3 or 3.5 points discount depending on size of the loan. Fixed rate mortgages available at 13.50 percent with 2.25 percent origination fee.
Mark Twain Banks	11	Conventional 30-year fixed, 13.425 percent with 2.5 percent origination fee. Adjustable rate and convertible mortgages also available. Rate is subject to change.	Farm & Home Savings Association	* No rate quoted
United Kansas Bank		Thirty-year fixed rate, 13.25 percent with 2 percent origination fee. Fifteen-year fixed rate, 13 percent with 2 percent origination fee. Adjustable loans have a maximum yearly change of 1 percent and a maximum lifetime change of 5 percent. Adjustable mortgage loans, 1-year, 11.50 percent; 3-year, 12.00 percent and 5-year, 12.50 percent. Jumbo loans available up to \$500,000.		
Anchor Savings Association		Thirty-year fixed rate, 13.50 percent with 2 percent origination fee and 5 percent or more down. Adjustable mortgage loans, 1-year, 10.75 percent and 1 point discount or 11.50 percent and		

Tickets Unlimited stages new revue of theater

By SUSAN WORTMAN

She looks like an average mother and she is — when she is upstairs. Downstairs, however, it's strictly business.

Eileen Silverman is owner, president and

November and December, Silverman made ticket arrangements for more than 35 groups, and she has already sold tickets for shows that will be in town in May.

The business has worked because people

