Approved 3-?-85
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS.

The meeting was called to order by REPRESENTATIVE HARDOL P. DYCK at
Chairperson

3:30 a.m./p.m. on March 26, 1985 in room 527-S of the Capitol.

All members were present except: Representatives David Louis, Bob Ott, Mary Jane Johnson and David Miller, each excused.

Committee staff present: Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes
Virginia Conard, Committee Secretary

Conferees appearing before the committee:

Jim Maag, Kansas Bankers Association
Jim Turner, Kansas League of Savings Institutions
Marvin Umholtz, Kansas Credit Union League
Bud Grant, Kansas Chamber of Commerce & Industry
Terry Humphrey, Executive Director, Kansas Manufactured Housing Institute
Stan Lind, Kansas Association of Finance Companies

Chairman Harold Dyck called the meeting to order and stated that this could be the last meeting of the 1985 session depending on the action of the committee regarding the three bills in the committee, SB140, SB58 and SB123. The committee would be hearing SB123 today.

The chairman then called on Jim Maag, Kansas Bankers Association, who testified for SB123. (See Attachment I).

Jim Turner, Kansas League of Savings Institutions, was the second conferee in favor of SB123. He pointed out that the 21% UCCC usury ceiling rate had not been abused, and he strongly urged the passage of this bill.

Marvin Umholtz, Kansas Credit Union League, was the third proponent for SB123. (Attach. II)

The fourth proponent of SB123 was Bud Grant, Kansas Chamber of Commerce & Industry. (Attach. III)

Terry Humphrey, Kansas Manufactured Housing Institute, was the next conferee for SB123. (Attach IV)

Stan Lind, Kansas Association of Finance Companies, was the sixth and last conferee in support of SB123. He said the 21% ceiling is needed in case the prime rate goes back up. He emphasized we have been on a roller coaster of prime rates the past 10 years. He urged the passage of SB123.

Rep. Lawrence Wilbert moved that SB123 be recommended favorably for passage. Rep. Homer Jarchow seconded. Motion carried.

The chairman then asked Dr. Bill Wolff, Legislative Research, to brief the committee on SB58 and SB140.

Rep. Homer Jarchow moved that SB58 be recommended favorably for passage. Rep. Dorothy Nichols seconded the motion. Motion carried.

Rep. J. C. Long moved that SB140 be recommended favorably for passage. Rep. Richard Schmidt seconded. Motion carried.

Rep. Nichols moved that the minutes of the last meeting be approved. Rep. Wilbert seconded the motion. Motion carried.

Chairman Dyck announced there would be no more meetings this session. He said today's minutes would be sent to each committee member and that it would be assumed they are approved unless he hears from anyone to the contrary. He expressed appreciat the committee members for their good work and cooperation. Rep. Sand expressed appreciation to the chairman on behalf of the committee members for his leadership.

Meeting adjourned at 4:10 pm.

DATE 3-26-85

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS

NAME	ORGANIZATION	ADDRESS
Mary Rice	A.G.'s office-intern	Topeka
Kenny Humphrey	KMHI	Topeka
M.C. Umholtz	KCUL	"
Bud Grant	KCCI	"
Jim Turner	KLSI	Topeka
Stan Lind	KAFC	K.C.K.
Tom Regan	" "	Topeka.
Jerel Wright	KCUL	"
PAT BARNES	KS. MOTOR CAR DLRS ASSN.	TOPEKA

PUBLIC TESTIMONY
ON
SB 123

TO THE
HOUSE COMMITTEE ON
COMMERCIAL AND FINANCIAL INSTITUTIONS

KANSAS BANKERS ASSOCIATION

MARCH 26, 1985

ATTACHMENT 1 3/26/85

The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

March 26, 1985

TO: House Committee on Commercial and Financial Institutions

FROM: James S. Maag, Director of Research
Kansas Bankers Association

RE: SB 123

Mr. Chairman and members of the committee:

We appreciate this opportunity to appear before the committee and discuss the provisions of SB 123 which amends several sections of the Kansas Uniform Consumer Credit Code. The 1983 Legislature passed HB 2079 which established under the Code an alternative rate ceiling of 21% for installment and revolving credit sales as well as consumer loans. That same bill also established a "sunset" date of July 1, 1985, for those alternative rates. SB 123 simply changes that sunset date from July 1, 1985, to July 1, 1987, thus continuing the 21% alternative rate for consumer credit sales and loans for two more years.

Section 3 of SB 123 amends that part of the Code relating to consumer loans (K.S.A. 16a-2-401) and is the section to which I would like to direct my comments. As veteran members of the committee who have worked with the Code are aware, this section allows lenders to contract for a finance charge using the "blended rate" method (36% for amounts from $0 to $570; 21% for amounts from $571 to $1900; and 14.45% for amounts in excess of $1900) or the "alternative rate" method (21%). The alternative rate concept is a relatively recent addition to the Code and was originally set at 18% until it was moved to 21% by the 1982 Legislature. The alternative rate is used in practically all consumer loan transactions in excess of $4000 and those loans, of course, constitute the great bulk of consumer lending done by banks.

The 21% alternative rate ceiling has now been in effect for three years and the history of consumer lending in that period shows that we have contended for some time--that consumer loan rates are set by competition and not by rate ceilings. Consumer loan rates in pratically all instances have been well below the 21% ceiling in Kansas banks during this three-year period. The question logically follows that if that has been the case why is a 21% ceiling rather than some lower percentage necessary? Recent legislative history in this area would indicate that setting a ceiling too low in a volatile national economy can have detrimental results.

Office of Executive Vice President • 707 Merchants National Building
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444

Several members of this committee will recall that in 1981 we appeared before this committee requesting a 21% alternative rate to replace the existing 18% rate, but at that time (March, 1981) the prime rate had dropped slightly below 18% and it was decided that an 18% ceiling for consumer loans was adequate although, as everyone is aware, prime rates constitute the lowest possible rates for the best commercial customers and are always seeral points below consumer lending rates. However, soon after the Legislature adjourned in 1981, as the accompanying charts show, interest rates on a national and international basis increased dramatically and for most of the remaining months of that year even the prime rate remained above 18%.

The practical effect of keeping the 18% ceiling on consumer loans throughout 1981 was to sharply restrict the availability of consumer credit. Statistics from the office of the Consumer Credit Commissioner show a drop in the number of consumer loans of $5000 or less of nearly 50% when 1979 figures are compared with 1981. This simply meant that thousands of Kansans were not able to obtain consumer credit through traditional sources and were either forced to forego consumer purchases or turn to other less regulated sources of credit where they most assuredly paid extremely high interest rates.

Experts in the consumer credit field, such as Dr. Robert Johnson of Purdue University who has appeared before Kansas legislative committees, have pointed out the attempts to control consumer interest rates by creating low statutory ceilings dramatically impact the number of borrowers who will have available credit. He further notes that low ceilings tend to deny credit to a majority of high rist borrowers who can manage their debts satisfactorily. Thus, while "protecting" the five out of 100 high risk debtors who would probably default on their consumer loan, the 95% of high risk debtors in the same category and who could handle such debt have been effectively denied consumer credit.

In his appearance before the Special Committee on Commercial and Financial Institutions in 1983, Dr. Fred Miller of the University of Oklahoma Law School and a Uniform Code Commissioner, made the following comments concerning limitations on consumer loans:

> "A final conclusion that can be drawn, in my opinion, is that a usury law doesn't help anyone. If you qualify under the legal rate, it doesn't help you get the credit. If you don't qualify it doesn't help you. Perhaps if a person turned down would accept that decision, unwise extension of credit would be prevented, but we all know that is not human nature and plenty of evidence shows these people pay inflated cash prices to get credit or go to loan sharks or otherwise obtain desired credit. You can no more legislate human nature than you can economics. If the cost structure and a profit cannot be accommodated within the

> level that the legislature has set, then either some segment is prevented from getting credit, or most probably, they are sent into the illegal market, which has some consequences of its own."

Perhaps the question which needs to be answered is at what ceiling rate does the Legislature believe there will be no restriction on the availability of needed consumer credit? If the Kansas Legislature could control the cost of money within the state's border or if there were assurances that Congress will, in fact, take strong action to control the enormous national debt growth then a lower alternative rate ceiling might be justified. However, the continuing inability of Congress to deal with the federal budget deficit coupled with potential inflation problems lead us to believe that it is in the best interests of the Kansas consumer and the Kansas economy for the Legislature to leave the alternative rate at 21% which allows sufficient flexibility to insure that legitimate consumer credit needs will be met.

Thank you, Mr. Chairman and members of the Committee, for the opportunity to discuss this important issue with you and we strongly urge that you recommend the passage of SB 123.

KANSAS BANKERS ASSOCIATION

MAXIMUM INTEREST RATES

(Effective July 1, 1984, and superceding all prior usury mailings.)

I. CONSUMER LOANS

A. A loan is a "consumer loan" if (1) it is to a natural person; and (2) it is primarily for personal, family, or household purposes.

B. Consumer loans of $25,000 or less and not secured by real estate

   1. This type of loan falls within the scope of the UCCC and a bank must use one of the following UCCC interest rate ceilings:

      a. 21% on the unpaid balance; OR

      b. A blended rate* as follows:

         1. 36% on amounts from $0 to $570;

         2. 21% on amounts from $571 to $1900; and

         3. 14.45% on amounts in excess of $1900.

C. Consumer loans in excess of $25,000 and not secured by real estate

   1. This type of loan does not fall within the scope of the UCCC, nor is it controlled by the Freddie Mac-plus-1-and-1/2% real estate rate.

   2. For this type of loan, the general 15% usury rate applies.

   3. A bank may obtain a higher rate by contracting such a loan under the UCCC to obtain the 21% (or blended) rate.**

---

*It is our opinion that, under the most favored lender doctrine, banks need not obtain a license to charge these blended rates. Literally, however, the state statute sets out the following blended rate schedule for unlicensed banks:

18% on amounts from $0 to $1,000; and

14.45% on amounts in excess of $1,000.

Unlicensed banks should consult their local bank counsel for guidance in this matter.

D. <u>Fixed</u> <u>rate</u> consumer loans <u>secured</u> <u>by</u> <u>real</u> <u>estate</u>

1. First mortgages

   a. This type of loan does <u>not</u> automatically fall within the scope of the UCCC.

   b. In general, the maximum rate is 1 and 1/2% above the "Freddie Mac" rate which is published during the first week of each month.

   c. If a lender does not want to be limited to the Freddie Mac-plus-1-and-1/2% rate, it may contract the loan under the UCCC to obtain the 21% (or blended) rate.**

2. Second mortgages (where bank does <u>not</u> hold the first mortgage)

   a. This type of loan automatically falls within the scope of the UCCC for all purposes <u>except</u> maximum interest rate purposes.

   b. In general, the maximum rate is 1 and 1/2% above the "Freddie Mac" rate which is published during the first week of each month.

   c. If a lender does not want to be limited to the Freddie Mac-plus-1-and-1/2% rate, it may contract the loan under the UCCC to obtain the 21% (or blended) rate.**

E. <u>Adjustable</u> <u>rate</u> consumer loans <u>secured</u> <u>by</u> <u>real</u> <u>estate</u>

1. First mortgages do not automatically fall within the scope of the UCCC. Second mortgages (where bank does not hold the first mortgage) automatically fall within the scope of the UCCC for all purposes except maximum interest rate purposes.

2. There are no interest rate limitation for either first or second adjustable rate mortgages.

3. But note that <u>national</u> <u>banks</u> must comply with the Comptroller of Currency adjustable rate mortgage regulations; and <u>state</u> <u>banks</u> must comply with either (1) the Office of the Comptroller of Currency regulations or (2) the state adjustable rate mortgage regulations.

F. For all consumer purpose real estate loans, the bank may collect from the borrower actual filing fees and other reasonable expenses without including those amounts in the interest rate. On the other hand, points collected to increase a banks effective rate of interest must be included as part of the interest rate.

II. AGRICULTURAL OR BUSINESS LOANS

A. The "agricultural or business" loan category includes any loan used for an agricultural or business purpose, regardless of the type of collateral securing the loan. Specifically note that an agricultural/business purpose loan falls within this category even if it is secured by real property, and this remains true even if the secured real property is the principal dwelling of the customer.

B. Agricultural/business loans do not automatically fall within the scope of the UCCC.

C. There are no interest rate limitations for agricultural or business purpose loans.

**To contract a loan under the UCCC, the note must contain wording similar to the following: "The parties agree that this loan is subject to Sections 1 through 131 of the Kansas Uniform Consumer Credit Code, including those provisions establishing maximum interest rates." Once a loan is contracted under the UCCC, all UCCC provisions apply.

KANSAS BANKERS ASSOCIATION

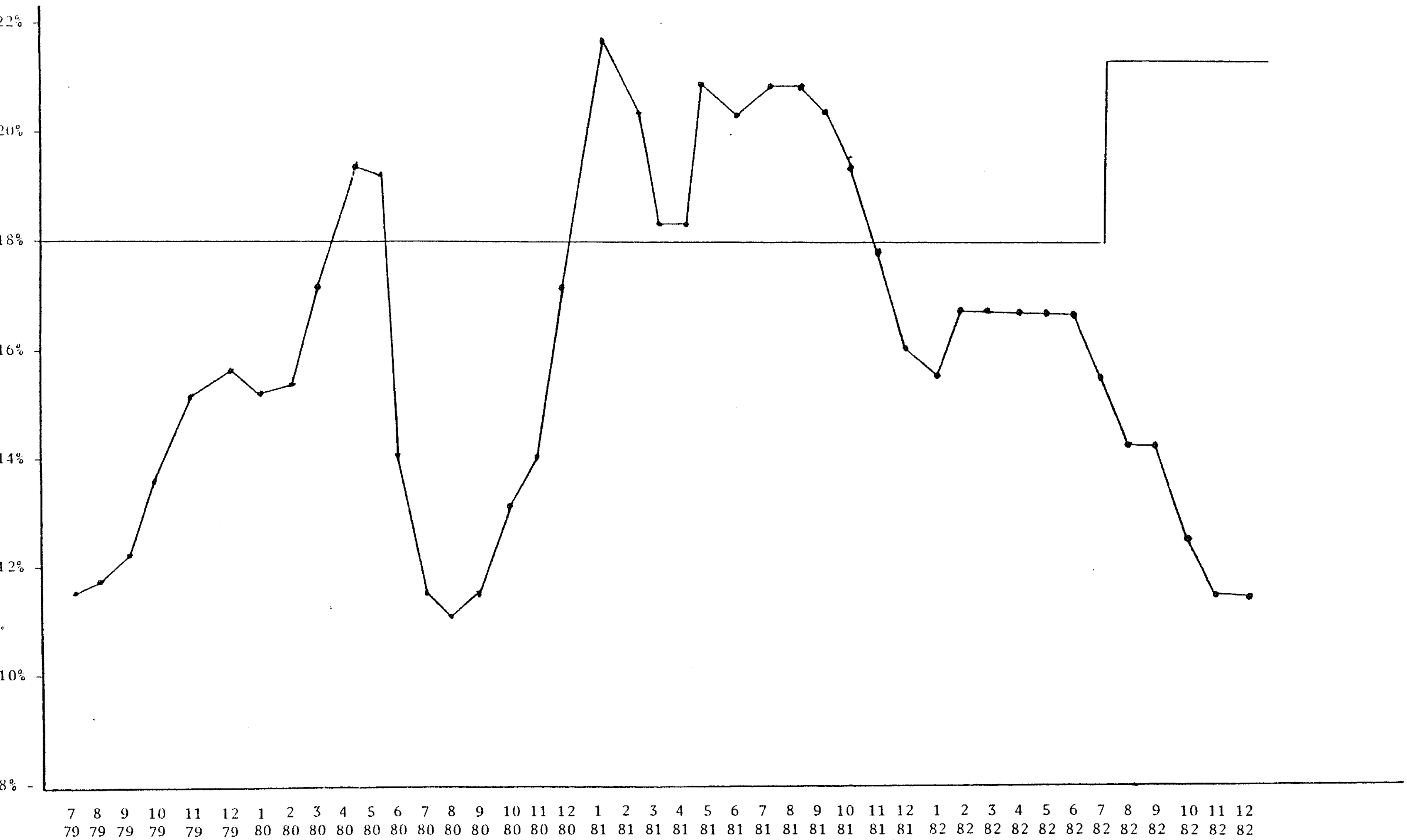
USURY RATE CHART

(Effective August 1, 1983)

TYPE OF LOAN	21% or Blended Rate	Freddie Mac plus 1&1/2%	15%	No Limit
Consumer Loan, Not Secured by Real Estate				
Under $25,000	X			
Over $25,000			X	
Consumer Loan, Secured by Real Estate				
Fixed Rate		X		
Adjustable Rate				X
Agricultural or Business Loan				X

NOTE: Any loan can be contracted under the UCCC to obtain the UCCC maximum interest rate of 21% (or the blended rate). To effectively contract a loan under the UCCC, the promissory note must contain wording similar to the following:

> "The parties agree that this loan is subject to Sections 1 through 131 of the Kansas Uniform Consumer Credit Code, including those provisions establishing maximum interest rates."



NEW YORK PRIME RATE

Kansas Credit Union League

1010 TYLER, SUITE 205
TOPEKA, KANSAS 66612

DATE: March 26, 1985

TO: House Committee on Commerical & Financial Institutions

FROM: Marvin C. Umholtz, Vice President
Kansas Credit Union League (KCUL)

SUBJECT: Testimony on SB 123, as amended
AN ACT amending the uniform consumer credit code; relating to finance charges.

Mr. Chairman, Members of the Committee:

I appreciate having this opportunity to appear before the Committee in full support of SB 123, as amended, the bill designed to continue for another two years the existing alternative 21% Uniform Consumer Credit Code (UCCC) consumer loan rate ceiling and the current authority for creditors to change the finance charge in an open end credit account with a 30-day notice to the consumer.

KCUL supports this measure for several key reasons:

1. It continues the Kansas Legislature's historical pattern for the treatment of consumer loan rate ceilings. Laws have been enacted since 1980 which have had provisions similar to SB 123, as amended. Consumer loan rate ceilings will remain as they are today if this measure is enacted.

2. Credit unions act responsibly when it comes to establishing the interest rates on consumer loans to their members. Historically credit unions have been able to offer their members very reasonable loan rates--well below the legal ceilings and often times well below the prevailing market rates.

3. Artificially low consumer loan rate ceilings adversely impact credit availability. Numerous financial system, university and state-authorized studies, in addition to actual experience, support this statement.

4. Competitive financial market conditions remain volatile. Although relatively stable (when compared to 1980-81) in recent months, many economists are predicting that there could be significant upward movement of interest rates in the months to come.

5. Kansas consumer loan rate ceilings govern only loans made by financial institutions located in Kansas. Recently a number of large out-of-state banks have been actively soliciting the credit card business of Kansas citizens. These institutions can "export" their states' rate ceilings to Kansas.

ATTACHMENT 2 3/26/85

ASSOCIATION OF
KANSAS CREDIT UNIONS
AFFILIATED WITH CUNA, INC.
AND THE
WORLD COUNCIL OF CREDIT UNIONS

SUMMARY

As a practical matter, the 21% consumer loan rate ceiling under current law and as extended by SB 123, as amended, is above the current market rates for loans typically made by credit unions to their members.

Credit unions hope that the 21% will be adequate for now and in the near future. A repeat of the "roller coaster" market rates of 1980-81 would be the only event which would cause extreme problems. Because credit union members rely on the credit union as their source of consumer loans, the Kansas Credit Union League supports SB 123, as amended, and encourages the Committee to recommend the bill favorably for passage.

Thank you, Mr. Chairman, for providing this opportunity to appear before the Committee. I will respond to questions at your direction.

LIST OF ATTACHMENTS:

I. Kansas-chartered Credit Unions Consumer Loan Rate Maximums

II. Legislative History: Kansas UCCC Consumer Loan Rate Maximums

III. Kansas UCCC Rate Ceiling Applicability to CUs

* * *

The Kansas Credit Union League is the state trade association for Kansas credit unions. Our association represents 97% of the 168 state-chartered and 46 federally-chartered credit unions located in Kansas. Credit unions are non-profit financial cooperatives chartered under state or federal law which are owned by the people who save and borrow there. Kansas credit unions serve the personal financial needs of over 400,000 individual credit union members and have almost $1 billion in combined assets. Kansas credit unions range in asset size from approximately $26,000 to $61 million and range in size of membership from 57 members to 25,000 members.

KANSAS-CHARTERED CREDIT UNIONS
CONSUMER LOAN RATE MAXIMUMS

Kansas' Uniform Consumer Credit Code

A state-chartered credit union may use one or more of four possibilities concerning the maximum consumer loan rate ceiling as governed by the Kansas version of the Uniform Consumer Credit Code (UCCC). The section of the UCCC which impacts consumer loans made by financial institutions (K.S.A. 16a-2-401) outlines the following options:

1. K.S.A. 16a-2-401 (1) establishes rate ceilings applicable to "Supervised Financial Organizations" as defined by K.S.A. 16a-1-301(37), which includes state-chartered credit unions. The following rate structure is provided:

Loan Amount	$0 - $1,000	18% APR	Rates may be blended per subsection (3)
	over - $1,000	14.45%	

2. K.S.A. 16a-2-401(2) establishes rate ceilings applicable to a "Supervised Loan" (defined - K.S.A 16a-1-301 (39)) made under a "license" issued by the administrator of the UCCC - The Consumer Credit Commissioner. The Consumer Credit Commissioner issues "licenses" pursuant to K.S.A. 16a-2-301. A state-charted credit union may apply for and receive a lenders "license." The following rate structure is provided:

Loan Amount	$0 - $570*	36% APR	Rates may be blended per subsection (3)
	over $570 - $1,900*	21%	
	over $1,900*	14.45%	
	or 18% on the entire balance		

*Statutory loan amounts may be increased by an index pursuant to K.S.A. 16a-2-401a as implemented by K.A.R. 75-6-24

3. K.S.A. 16a-2-401(9) establishes a temporary alternative rate provision of 21% on the entire outstanding balance of the loan. The alternative 21% rate ceiling is available to state-chartered credit unions. The 21% alternative rate will not be available after June 30, 1985, unless extended by an act of the Legislature and the Governor's signature.

4. K.S.A. 16a-2-401(6) establishes an alternative allowable minimum finance charge on very small loans. The statute reads: "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."

OTHER OPTIONS

Federal Pre-emption of State Rate Ceilings

Public Law 96-221, March 31, 1980, provides for pre-emption of any state constitutional or statutory usury rate provision. A credit union insured by the

National Credit Union Share Insurance Fund may charge an interest rate up to 1% in excess of the discount rate on 90-day commercial paper at the Federal Reserve bank in its district or the rate allowed by its state law, whichever is greater. (12 U.S.C. 1785(g))

Kansas Credit Union Law "Federal Conformity"

The "Federal Conformity Statute" in the Kansas Credit Union Law (K.S.A. 17-2244) provides a mechanism whereby the Credit Union Administrator, with the approval of the Credit Union Council, may act to authorize any credit union to engage in any activity in which such credit union could engage where they operate as a federally chartered or federally insured credit union at the time such authority is granted. In October of 1981, certain state-chartered credit unions requested and obtained the authority pursuant to this law to charge the same rate as a federal credit union. This authority has not been revoked.

Currently, the Federal Credit Union Act provides a maximum rate of 15% APR on the unpaid balance. However, the National Credit Union Administration (NCUA) Board may authorize a higher rate for periods up to 18 months under certain conditions. The NCUA Board has set 21% APR as the maximum rate until January 25, 1986. (12 U.S.C. 1757(5)(A)(vi); 12 C.F.R. 701.21-1A)

State-chartered Federally Insured Credit Unions As Most Favored Lenders

In the Federal Register (Vol. 45, No. 230, Pg. 78624) of Wednesday, November 26, 1980, the National Credit Union Administration issued a "Statement of Interpretation and Policy" (IRPS 80-11) which was summarized by NCUA as follows:

> "SUMMARY: This document states that Section 205(g)(1) of the Federal Credit Union Act grants most favored lender status to a state chartered federally insured credit union. It also states that Section 205(g)(1) applies only when a credit union is granting a loan other than a first mortgage loan, a business loan of $1,000 or more, or an agricultural loan of $1,000 or more. As a result, when the interest rate a credit union could normally charge on such a loan is less than one percent over the discount rate for 90-day commercial paper, the credit union can charge an interest rate of up to one percent plus the discount rate or it can charge any interest rate any other lender (such as a bank or a savings and loan association) could charge on the same loan under state law. This interpretation and policy statement is being issued in response to requests from a credit union and a trade association."

Note: 1. "Consumer Loan" under the UCCC is defined by K.S.A. 16a-1-301(13)

2. K.S.A. 16a-1-109 provides that any loan may be contracted to be governed by the UCCC.

LEGISLATIVE HISTORY
Kansas UCCC Consumer Loan Rate Maximums
K.S.A. 16a-2-401

DATES	DATES	CITATION
°July 1, 1983 through June 30, 1985	°Tiered rates in subsections (1) and (2) available °Alternative 21% APR on entire balance available in subsection (9)	L. 1983, ch. 79, sec. 3* Effective: 7/1/83
°July 1, 1982 through June 30, 1983	°Tiered rates in subsections (1) and (2) available °Alternative 21% APR on entire balance available in subsection (8) (was raised from 18% to 21% this year)	L. 1982, ch. 93, sec. 3* Effective: 7/1/82
°July 1, 1981 through June 30, 1982	°Tiered rates in subsections (1) and (2) available °Alternative 18% APR on entire balance available in subsection (8)	L. 1981, ch. 94, sec. 3* Effective: 7/1/81

SPECIAL NOTES:

1. Pursuant to the Kansas CU Law (K.S.A. 17-2244) the CU Administrator and the CU Council authorized a number of credit unions to charge the same rate of 21% APR which was allowed for federal credit unions. This occured after October 21, 1981 and has not been revoked.

2. During the first quarter of 1980, certain credit unions applied for and obtained "lenders licenses" under the UCCC from the Consumer Credit Commissioner pursuant to K.S.A. 16a-2-301. Such licenses are required for each location (home and branch offices) and are subject to annual renewal.

°May 17, 1980 through June 30, 1981	°Tiered rates in subsections (1) and (2) available °Original enactment of "temporary" 18% APR on the entire balance alternative rate available in subsection (8) °Original enactment of authority to change the finance charge in an open end credit account with a single 30-day notice to the consumer.	L. 1980, ch. 77, sec. 3 Effective: Publication in the official State paper 5/17/80

*Included section extending the 30-day notice authority.

DATES	IMPACT	CITATION
°April 12, 1975 through May 16, 1980	°Tiered rates in subsection (1) available °Licensed lender tiered rates in subsection (2) were changed as follows: 2nd tier changed from 10% to 21%, the 3rd tier was added (current subsection (2) paragraph (c)) as was the licensed lender alternative to the tiers --(2)(d)--of 18% APR on the entire balance	L. 1975, ch. 126, sec. 1 Effective: publication in the official State paper 4/12/75

SPECIAL NOTE: L. 1975, ch. 126, sec. 2 was the original enactment of what is now K.S.A. 16a-2-401a which provides for the indexing of the dollar amounts found in subsection (2), the licensed lender tiers. Subsection (3) was also added to clearly allow for the blending of the rates allowed by subsections (1) and (2).

DATES	IMPACT	CITATION
°March 1, 1974 through April 12, 1975	°Added subsection (6) which allowed for minimum finance charges of $5 on amounts of $75 or under, or $7.50 over $75. (This subsection was available from its enactment and is still in effect.)	L. 1974, ch. 91, sec. 1
°12:01 a.m. January 1, 1974 through Feb. 28, 1974	°Original enactment of the Kansas version of the UCCC; provided for subsection (1) tiered rates and subsection (2) licensed lender tiers of 36% maximum on amounts under $300 and 10% on the balances over $300 °Repealed CU Act loan rate ceiling in K.S.A. 1972 Supp. 17-2214	L. 1973, ch. 85, sec. 27 Effective: 12:01 a.m., 1/1/74
°Prior to January 1, 1974	°State-chartered credit unions' loan rate maximum was in the Kansas CU Act (K.S.A. 17-2214) and was set at 1% per month on the unpaid balance	K.S.A. 17-2214

UCCC RATE CEILING APPLICABILITY TO CUs

Section 3 of S.B. 123 amending K.S.A. 1984 Supp. 16a-2-401 is the only section of this measure which governs the rate ceilings on consumer loans made by state-chartered credit unions. Sections 1 and 2 deal with consumer credit sales.

S.B. 123 has no applicability to the 46 federally-chartered credit unions located in Kansas. Federal credit unions (FCU), unlike other financial institutions, have a federal statute which governs their loan rate ceilings. The federal statute, (12 U.S.C. 1757(5)(A) (vi)) sets a 15% ceiling but allows the National Credit Union Administration (NCUA) Board (federal CU regulator) to set higher limits under certain circumstances. The current FCU rate limit is 21% on the entire outstanding balance. All types of loans made by FCUs are governed by the 21% ceiling.

Additionally, the rate ceilings in Section 3 of S.B. 123 do not apply to loans made by state-chartered credit unions for the following types of lending:

1. Agricultural purpose (deregulated ceiling)
2. Business purpose (deregulated ceiling)
3. First mortgage conventional real estate (K.S.A. 1984 Supp. 16-207)
4. "Alternative Mortgage Transactions" (as defined by Congress) -- a loan secured by an interest in residental real property, a dwelling or manufactured home in which the interest rate or finance charge may be adjusted or renegotiated. (12 U.S.C. 3803(a)(2); 12 CFR 701.21(a) and (b); Title VIII of P.L. 97-230; F.R. -Vol. 49, No. 149 Wednesday, August 1, 1984, p. 30683 & ff.)
5. The UCCC definition of "Consumer loan" also outlines other loans which are not covered. (K.S.A. 1984 Supp. 16a-1-301(13)(b))
6. However, any loan <u>may</u> be specifically contracted to be under the UCCC by the parties to the loan. (K.S.A. 16a-1-109)

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the Kansas State Chamber of Commerce, Associated Industries of Kansas, Kansas Retail Council

SB 123

March 26, 1985

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Commercial and Financial Institutions

Mr. Chairman and Members of the Committee:

My name is Bud Grant and I am appearing today on behalf of the Kansas Retail Council and the Kansas Chamber of Commerce and Industry in support of SB 123.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

While the Chamber is privileged to include in its membership hundreds of banks, savings and loan institutions, and other representatives of the financial community, these groups are more than adequately represented here today by their individual trade

ATTACHMENT 3 3/26/85

associations. For that reason, I will limit my comments to SB 123 from the retailers prospective.

I believe that the financial institutions would agree that much of their cost is providing credit is directly related to the prime rate and the cost of the money. When the prime rate dramatically increases, as it did in 1980-81, lending rates by banks and others must also increase. That was the situation when the alternative 21% interest rate was enacted in 1982. And, that is why financial institutions are currently well below the maximum - the cost of money is down.

This is not true with retailers - most are at or very close to the maximum authorized - but for entirely different reasons. The cost of money represents less than one-third of retailers' costs in providing credit to their customers. Payroll, postage, and other expenses such as bad debt loss, communications, rent, etc., are involved.

Let's briefly review what has taken place in these areas since passage of the Uniform Consumer Credit Code in 1973.

	1973	1982	1985
Postage	$ .10	$ .20 (100%)	$ .22 (120%)
Social Security	13,200	32,400 (181%)	39,600 (261%)
	772	2,170	2,791
CPI (1967)	148	292 (99%)	316 (114%)
Prime Rate	10.8	14.8 (37%)	10.5 (-.3)
Minimum Wage	2.00	3.35 (67%)	3.35 (67%)

It becomes readily evident after reviewing these costs why Kansas retailers have asked for and have utilized the alternative rate. Without the availability of the alternative rate, two choices remain - eliminating the extension of credit or increasing prices and asking the cash customer to subsidize the credit customer. We suggest that the current system of having the credit customer finance the cost of providing credit is best for all.

Mr. Chairman and members of the Committee. I respectfully urge your support of SB 123 and would be pleased to attempt to answer any questions.

IV

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TESTIMONY BEFORE HOUSE

COMMERCIAL AND FINANCIAL INSTITUTIONS COMMITTEE

MARCH 26, 1985

TO: Representative Harold Dyck, Chairman, Commercial and Financial Institutions Committee

FROM: Terry Humphrey, Executive Director, Kansas Manufactured Housing Institute

SUBJ: In Support of Senate Bill 123

Mr. Chairman and members of the committee, I am Terry Humphrey, Executive Director of Kansas Manufactured Housing Institute. Thank you for the opportunity to appear before you in support of Senate Bill 123.

The Kansas Manufactured Housing Institute is a trade association representing all facets of the manufactured housing industry, i.e. manufacturers, retailers, park owners, suppliers, financial institutions, insurance companies, service companies and transport companies.

KMHI supports Senate Bill 123 which allows for the continuance of the present 21% maximum interest rate under the Uniform Consumer Credit Code. Since interest rates are set by market conditions, as well as competition within the marketplace, we feel that the 21% interest rate cap allows enough flexibility for mobile home retail lending to be available.

In 1981 when the prime rate was very high loans on manufactured housing reached highs of 18% a.p.r. In 1983 as the national prime began to come down manufactured home loans were available at 15 and 16% a.p.r. By December of 1984 due to decreasing prime rates manufactured home loans were available to customers at 13.50% a.p.r.

As you can see the prime rate basically controls the retail loan rate to customers; therefore, we suggest the continuance of the 21% interest rate maximum to cover those times when interest rates might move up again. KMHI respectfully requests the passage of Senate Bill 123. Thank you.

ATTACHMENT 4 3/26/85