

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./p.m. on February 20, 1985 in room 529-S of the Capitol.

All members were present except:

Senators Gannon and Burke - Excused

Committee staff present:

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

Conferees appearing before the committee:

Jim Turner, Kansas League of Savings Institutions
Gerald Goodell, Kansas League of Savings Institutions
Marvin Umholtz, Kansas Credit Union League
Jim Maag, Kansas Bankers Association

The meeting began with the chairman informing the committee that Stan Lind of the Kansas Association of Finance Companies who was not present would like to request the introduction of a bill concerning the Investment Certificate Act. At this time there is no draft for the bill, but the deadline for requesting bills is near. The chairman asked the committee to consider the introduction of the bill with the promise from Mr. Lind that the bill draft will be available by the deadline to request committee bills.

The hearing began on SB 141 dealing with joint ownership of payable on death accounts. Staff informed the committee that there had been an error in the drafting process in which the same language appearing on lines 118 through 120 should have been also included on page 2, line 58 after "or owners".

Jim Turner, Kansas League of Savings Institutions, appeared in support of the bill (See Attachment I) and introduced Gerald Goodell who represents his organization and who explained the bill further. Mr. Goodell said the bill would allow a person to open an account and leave it to a relative automatically without probate upon his death, a so-called poor man's will. The existing wording of the law uses the singular case which would not authorize savings and loans to open a joint account for a man and wife for this purpose. The bill would clean up the statute and, thus, allow the joint payable on death accounts.

Sen. Werts asked if there has been any litigation concerning this technicality. Mr. Goodell said that there had been none, but there is a reluctance on the part of some counselors to recommend joint payable on death accounts because of it.

Mr. Goodell also confirmed the chairman's statement that the savings and loans and banks are in the bill, but the credit unions are not. He said that he had not realized that credit unions deal with payable on death accounts.

Marvin Umholtz, Kansas Credit Union League, appeared in support of SB 141 and requested an amendment to it to include the credit unions. (See Attachment II.)

Jim Maag, Kansas Bankers Association, appeared in support of the bill, noting that banks get calls on this same interpretation.

The chairman asked both Mr. Maag and Mr. Turner if payable on death accounts are widely used, and both said, "Yes".

Sen. Strick asked for confirmation that joint payable on death accounts exclude the need to be probated. Mr. Goodell answered that this would be true if all that you had was the payable on death account; if other assets are involved, the other assets would have to go through probate.

The chairman asked if there is a limit on the accounts, and Mr. Goodell answered there was not.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on February 20, 1985

The hearing on SB 141 was concluded.

Sen. Reilly made a motion to amend SB 141 by inserting the language appearing on lines 118 through 120 on line 58 after "or owners". Sen. Karr seconded, and the motion carried.

Sen. Gordon made a conceptual motion to amend SB 141 to include credit unions. Sen. Reilly seconded, and the motion carried.

Sen. Karr made a motion to report SB 141 favorably as amended. Sen. Gordon seconded, and the motion carried.

The chairman turned the committee's attention back to the request for the introduction of a bill by Stan Lind which had not, as yet, been drafted. Sen. Werts made a motion that Mr. Lind's bill concerning investment certificates be introduced and referred back to committee. Sen. Warren seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE NAME ADDRESS REPRESENTING

2-20-85	M.C. Imholz	Topeka	KCUK
2-20-85	George Goodell	Topeka	KL & I
"	Jarvis Wright	Topeka	KCUK
"	Jim Turner	Topeka	KL & I
"	J. May	"	KRBA

KLST Kansas
League of
Savings
Institutions

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

February 20, 1985

TO: SENATE COMMERCIAL AND FINANCIAL INSTITUTIONS
FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: S.B. 141 (PAYABLE-ON-DEATH ACCOUNTS)

The Kansas League of Savings Institutions appreciates the opportunity to appear before the Senate Committee on Financial Institutions in support of S.B. 141 which would eliminate ambiguities in the statute pertaining to Payable on Death (P.O.D.) Accounts.

The provisions of S.B. 141 amends K.S.A. 1984 Supp. 9-1215 and 9-1216 (pertaining to banks) and K.S.A. 1984 Supp. 17-5828 and 17-5829 (pertaining to savings and loan associations) to allow the establishment of Payable-on-Death Accounts either as individual or joint tenancy accounts. Literal interpretation of the statute would apparently preclude joint tenancy accounts at the present time.

Further, we understand that the credit unions have an interest in amending their P.O.D. statute in a similar manner and we would have no objection to such an amendment. Also, the revisors' office is aware of a printing error that also needs to be corrected.

We would appreciate the committee's earliest attention to reporting S.B. 141 favorably for passage.

James R. Turner
President

JRT:bw

2/20/85
Attachment I



**Kansas
Credit
Union
League**

1010 TYLER, SUITE 205
TOPEKA, KANSAS 66612

DATE: February 20, 1985

TO: Senate Committee on Financial
Institutions & Insurance

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

SUBJECT: SB 141, An Act concerning financial
institutions; relating to accounts
payable on death of the owners;

Mr. Chairman, Members of the Committee:

The Kansas Credit Union League (KCUL) supports the passage of SB 141 and requests that the Committee amend the bill to make the same changes to the Kansas Credit Union Acts' payable-on-death (POD) statutes that are being made to the POD sections of the banking and savings and loan codes.

KCUL has mentioned this amendment to the representatives of the Kansas League of Savings Institutions (KLSI) who indicated that KLSI had no objection to the amendment.

Our association has supported POD account legislation since its original enactment in Kansas (L. 1979, ch. 177, sec. 5 and 6; 1979 SB 395) and throughout the legislative history of the statutes--including the clarifying changes which have been made since the original enactment (L. 1980, ch. 166, sec. 3; L. 1982, ch. 104, sec. 2; L. 1984, ch. 51, sec. 3 and 4).

POD accounts, which pass the ownership of the account to a predetermined beneficiary (ies) upon the death of the owner, have proven popular with credit union members. Statistics received from a supplier of forms indicate that during the last 12 months, 25 credit unions have ordered over 3,000 POD account forms for use by their members.

KCUL Legal Counsel advises me that the proposed addition of joint tenancy language to the bank, S&L and CU acts found in SB 141 and our proposed amendment, may not be necessary. As part of his explanation, he cites K.S.A. 77-201 which reads:

77-201. Rules of construction. In the construction of the statutes of this state the following rules shall be observed, unless the construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:...

Third. Words importing the singular number only may be extended to several persons or things, and words importing the plural number only may be applied to one person or thing....

TO: Senate Committee on Financial
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KCUL Legal Counsel also points out several Kansas Supreme Court Cases which clearly indicate that the absence of statutory joint tenancy language in these POD account statutes would not preclude the entrance into joint tenancies by negotiation or contract. (Malone v. Sullivan, 136 Kan. 193 (1932); Bouska v. Bouska, 159 Kan. 276 (1944)).

Although the changes evidenced in SB 141 and our proposed amendment may not be technically necessary, we do support the bill with our amendment. Attorneys and others who refer to these POD account statutes will benefit by having the joint tenancy language specifically indicated.

Additionally, we support adding the CU Act POD statutes (K.S.A. 1984 Supp. 17-2263 and 17-2264) with similar joint tenancy amendments because the failure to do so could indicate to a future court that the Legislature intended to treat CU POD accounts differently from those of banks and S&Ls.

Thank you, Mr. Chairman for this opportunity to appear and offer our amendment to SB 141. I will respond to questions at your direction.

17-2263. Contracts for payment of shareholders' accounts to beneficiaries upon shareholders' deaths; rights of shareholder during lifetime; change of beneficiary. An individual adult or minor, hereafter referred to as the shareholder, may enter into a written contract with any credit union located in this state providing that the balance of the shareholder's account, or the balance of the shareholder's legal share of an account, at the time of death of the shareholder shall be made payable on the death of the shareholder to one or more persons or, if the persons predecease the owner, to another person or

persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3003 and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated.

Every contract authorized by this section shall be considered to contain a right on the part of the shareholder during the shareholder's lifetime both to withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the shareholder.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the credit union and delivered to the credit union prior to the death of the shareholder.

For the purposes of this section, the balance of the shareholder's account or the balance of the shareholder's legal share of an account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701 and amendments thereto.

History: L. 1979, ch. 177, § 5; L. 1980, ch. 166, § 3; L. 1982, ch. 104, § 2; L. 1984, ch. 51, § 3; July 1.

17-2264. Same; duties of credit union; release and discharge thereof. When the shareholder and the credit union have entered into a contract authorized in K.S.A. 17-2263 and amendments thereto, the shareholder's account subject to the contract or any part of or interest on the account shall be paid by the credit union to the shareholder or pursuant to the shareholder's

order during the shareholder's lifetime. On the shareholder's death, the deposit account or any part of or interest on the account shall be paid by the credit union to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3003 and amendments thereto, the credit union shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the credit union for the payment.

History: L. 1979, ch. 177, § 6; L. 1984, ch. 51, § 4; July 1.

KCUL Proposed Amendment:

Amend K.S.A. 1984 Supp. 17-2263 and 17-2264 to reflect the same changes as are currently found for banks and S&Ls in SB 141.