

Approved Feb 20, 1986
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

The meeting was called to order by Representative Harold P. Dyck at
Chairperson

3:30 ~~am~~ p.m. on Tuesday, February 18, 1986 in room 527-S of the Capitol.

All members were present except: Representatives Mary Jane Johnson and David Louis, both excused

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

Conferees appearing before the committee: Stanley Lind, Counsel & Secretary of Kansas
Association of Finance Companies
Michael Heitman, Deputy Banking Commissioner

Chairman Harold Dyck called the meeting to order and stated that the first conferee would be Stanley Lind, Counsel & Secretary of Kansas Association of Finance Companies. Mr. Lind asked the committee to consider the introduction of a bill to amend K.S.A. 16a-2-401 regarding origination fees on adjustable rate second mortgages on real estate. (See Attachment I for details.)

Rep. Sand moved that the requested bill amending K.S.A. 16a-2-401 be introduced as a committee bill. Rep. Wilbert seconded the motion. Motion carried.

The chairman then called on the second conferee, Deputy Banking Commissioner Michael Heitman who testified on HB2837 (see Attachment II for details) and on HB2838 (see Attachment III for details).

Chairman Dyck announced that the next meeting would be Thursday, February 20.

Rep. Long moved that the minutes of the February 4 meeting be approved, and Rep. Nichols seconded. Motion carried.

The meeting adjourned at 4:00 p.m.

THE KANSAS ASSOCIATION OF FINANCIAL SERVICES

Attachment I

813 N. 9th St., Box 1070, Kansas City, KS 66117-0070

913/342-1808

To : The Members of the Commercial & Financial Institutions Committee
Date : February 18, 1986
Subject : Committee Introduction of a Bill to Amend K.S.A. 16a-2-401
Submitted
By : Stanley L. Lind, Counsel for the Association

Purpose of Bill:

- 1) To limit origination fees on adjustable rate second mortgages on real estate to 3%.
- 2) To authorize a 3% maximum origination fee on fixed term second mortgages on real estate.

Reasons for Bill:

- 1) Adjustable rate second mortgages on real estate have no limit on origination fees except for an administrator's opinion letter of questionable validity.
- 2) Fixed term second mortgages on real estate made under the Uniform Consumer Credit Code are the only real estate mortgages not authorized to charge an origination fee. (See attached chart on yellow page)
 - o It costs as much to place a fixed term real estate mortgage on the lender's books as any other type of mortgage.
- 3) Because the secondary market charges a lender a 1% origination fee plus a 1% to 1.5% private mortgage insurance premium, which cost a lender now has to absorb, licensed lenders do not make fixed term second mortgage loans as a rule.
- 4) Give borrowers a wider selection of second mortgage real estate contracts and an entry to the lower rate of the secondary national market.
 - o Use of the secondary market permits lenders to give a lower contract rate because of the access to the national markets. Because lenders have a 2% to 2 1/2% expense in selling fixed term second mortgages to the secondary market, lenders are not inclined to make this type of loan.

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- If lenders could pass this charge to the customer as all other lenders can do, then fixed term second mortgages could also be made available to the public, who would then enjoy the lower rates of the national market.

5. Provide licensed lenders a means of increasing their net earnings.

- The five year national average Net Profit to Average Net Receivables for consumer finance companies is 2.23%.

In Kansas, the five year average is .14 of 1%!
The National average is 16 times the Kansas
average! The 3% origination fee on real estate
loans would permit a means of increasing these
meager profits.

Johnson County Mortgage Rates

(Information supplied by lenders; rates are subject to daily change.)

	30 Yr. Fixed	PTS Orig.	15 Yr. Fixed	PTS Orig.	ARM 1 Year	PTS Orig.
American Savings	11.125	.25+1.0	10.875	.25+1.0	8.50	2.5+1.0
Anchor Savings	10.50	1.0+2.0	10.25	1.0+2.0	8.50	1.0+2.0
Anderson & Blass Mortgage Co.	11.50	1.0+1.0	11.00	1.0+1.0	9.125	2.0+1.0
Bankers Life Company	10.75	1.75+1.0	10.25	1.5+1.0	9.00	2.25+1.0
Bankers Thrift & Loan Assoc.	10.50	2.5+1.0	10.50	1.5+1.0	8.375	2.0+1.0
Blue Valley Federal Savings & Loan			10.625	2.00	8.75	2.00
Bright Mortgage Corp.	11.00	1.75+1.0	10.75	1.0+1.0	8.75	1.5+1.0
Capitol Federal Savings	10.75	2.00	10.50	2.00	8.50	2.00
CFS Mortgage	11.00	2.00	10.50	2.50	8.50	4.00
CitiCorp	11.125	2.00	10.75	2.00	8.875	2.25
Colonial Savings	10.875	1.0+1.0	10.50	1.0+1.0	9.00	1.0+1.0
Columbia Savings Assoc.	10.50	2.75	10.25	2.75	8.50	2.00
Commerce Mortgage Corp.	11.00	1.25+1.0	10.75	1.0+1.0	8.50	2.25+1.0
Corinthian Mortgage Co.	11.00	.75+1.0	10.25	2.25+1.0	8.50	1.5+1.0
Community Federal Savings & Loan			10.875	2.00	8.75	3.00
ERA Mortgage Services	10.75	2.0+1.0	10.25	2.75+1.0	8.375	2.5+1.0
Fleet Mortgage Corp.	11.00	1.00	10.50	.5+1.0		
FirsTier Mortgage Co.	11.00	1.75+1.0	10.50	2.25	9.00	2.00
First Kansas City Mortgage	10.75	1.0+1.0	10.50	1.5+1.0	9.00	1.0+1.0
First Mortgage Service Corp.	10.50	2.25+1.0	10.00	2.5+1.0	9.00	1.0+1.0
GMAC Mortgage Co.	10.75	2.0+1.0	10.50	2.0+1.0	8.375	1.0+1.0
Home Savings Assoc.	11.00	2.00	10.75	2.00	8.50	2.00
Household Bank	10.75	2.00	10.50	2.00	8.75	2.00
Inter-State Federal Savings & Loan		6 month ARM only			10.00	1.50
Kansas City Mortgage Co.	10.75	2.0+1.0	10.5	2.0+1.0	8.75	1.0+1.0
Lomas & Nettleton Co.	10.50	2.5+1.0	10.25	2.5+1.0	8.375	2.0+1.0
Meritor Mortgage Co.	10.50	3.0+1.0	10.00	3.75+1.0	8.75	1.5+1.5
Norwest Mortgage	10.75	2.50	10.25	2.50	9.50	2.875
James B. Nutter & Co.	11.00	1.375+1.0	10.50	1.5+1.0	8.875	.5+1.0
Regional Investment Co.	11.125	.5+1.0	11.00	1.00	8.50	2.25+1.0
Talman Home Mortgage Corp.	11.00	1.0+1.0	10.50	2.0+1.0	8.875	1.0+1.0
Tomahawk Mortgage Co.	10.75	2.0+1.0	10.25	2.0+1.0	9.50	1.75+1.0
United Kansas Bank	10.50	2.25+1.0	10.25	2.25+1.0	8.375	2.0+1.0
World Savings & Loan	11.25	2.00	11.125	2.00	9.25	1.50

**Note: Many of the rates quoted are predicated on 20-30 percent down payment. Confirm terms with individual lenders.

Source: Johnson County Board of Realtors

Section 1. K.S.A. 1985 Supp. 16a-2-401 is here-
by amended to read as follows:

16a-2-401. (UCCC) Finance charge for consumer loans; exempting loans served by an interest in land. (1) With respect to a consumer loan, including a loan pursuant to open end credit, a lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding 18% per year on the unpaid balance of the amount financed not exceeding \$1,000 and 14.45% per year on that portion of the unpaid balance in excess of \$1,000.

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

The total of: (a) Thirty-six percent per year on that part of the unpaid balance of the amount financed which is \$300 or less; and

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

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

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

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

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

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

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

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same finance charge on all amounts financed

within a specified range. A finance charge so made does not violate subsections (1) and (2) if:

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

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

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

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

(Continued on next page)

A Attachment I

Section 1. (Continued)

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

(9) As an alternative to the rates set forth in subsection (1) and subsection (2)(d), during the period beginning on the effective date of this act and ending July 1, 1987, a supervised lender may contract for and receive a finance charge not exceeding 21% per year on the unpaid balance of the amount financed.

(10)

Except for subsection (10), this

(10) Notwithstanding subsections (1), (2) and (3) a lender may contract for and receive a non-refundable origination fee not to exceed 3% of the amount financed on any loan secured by a real estate mortgage.

TESTIMONY OF: Michael D. Heitman, Deputy Commissioner
Kansas Banking Department

PRESENTED TO: The House Committee on Commercial and Financial
Institutions

DATE: February 18, 1986

House Bill No. 2837 would require all proposed name changes pertaining to state-chartered banks be submitted to and approved by the State Banking Board.

K.S.A. 9-801 requires that the name selected for a newly chartered bank be accepted or rejected by the State Banking Board. We have interpreted this requirement to follow through to subsequent name changes. Without such a requirement the initial approval by the Board would be rendered meaningless.

The proposed legislation clarifies the required subsequent approval.

MDH/jas

Attachment II
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House C&FI Committee

TESTIMONY OF: Michael D. Heitman, Deputy Bank Commissioner
Kansas Banking Department

PRESENTED TO: The House Committee on Commercial and Financial
Institutions

DATE: February 18, 1986

House Bill No. 2838 amends K.S.A. 9-1912 and 9-2007, repeals the existing sections and repeals 9-1913.

1. K.S.A. 9-1912 requires the Commissioner to examine on a six (6) month basis every bank in the hands of a receiver, including the Federal Deposit Insurance Corporation ("F.D.I.C.").

In all instances to date, the F.D.I.C. has accepted and acted as receiver in all Kansas bank failures. The appointment is approved by the County District Court, an initial accounting of the assets and liabilities of the receivership is made to the Court, and a final accounting to the Court is made by the receiver at the termination of the receivership.

Pursuant to K.S.A. 9-1701, this department may accept examination reports from the F.D.I.C. In this regard and considering the professional skills of the F.D.I.C. and their accountability to the District Court, we find no basis of need supporting the expense incurred by this department performing supervisory examinations of the receiver. Consequently, we request favorable consideration of the proposed amendment excluding the F.D.I.C. from the provisions of subsection (a).

2. K.S.A. 9-2007 pertains to crimes and punishment. This statute presently contains similar language requiring six (6) month examinations of an insolvent bank in the hands of a receiver and establishes a penalty for non-compliance. The proposed amendment deletes the examination language, makes specific reference to K.S.A. 9-1912 subsection (a), and maintains the penalty provision.
3. K.S.A. 9-1913 requires the receiver of any bank to make reports to the Commissioner in the same manner as is required of other banks including publication. The referenced report is known as a "call report" which is a detailed listing of the bank's assets, liabilities and equity accounts. The purpose of the report is to enhance both regulatory and private monitoring of the bank's condition. Such a requirement pertaining to a failed bank serves no determinable need; hence, we request favorable consideration to the proposed amendment to repeal.

MDH/jas