

Approved January 23, 1986  
Date

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 January 22, 1986 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Rita D'Agostino, Bank Commissioner's Office  
Jim Maag, Kansas Bankers Association

The Chairman began the meeting by introducing the Bank Commissioner, Gene Barrett.

The Chairman called on Rita D'Agostino, Bank Commissioner's office, to present a request for the introduction of a bill. (See Attachment I). She said that the bill includes three statutory amendments as follows: (1) 9-509, dealing with the bond requirement of a business which wishes to sell or issue money orders. (2) 9-901-a, dealing with minimum capital requirements of new charters, and (3) 9-1722 which includes three changes in control.

Sen. Karr made a motion to introduce the bill and refer it back to committee, Sen. Burke seconded, and the motion carried.

Jim Maag, Kansas Bankers Association, followed with a request for two bills, one dealing with an amendment of the state banking code with regard to a bank's ability to hold real estate, and the other dealing with debit card holders' liability in the case of stolen property. (See Attachments I and II).

Sen. Burke made a motion to introduce the bills and refer them back to committee, Sen. Harder seconded, and the motion carried.

The Chairman instructed staff to begin a review of bills in committee which are as follows:

SB 16, dealing with the removal of the premium tax offset provision for insurance companies.

Sen. Harder made a motion to report SB 16 adversely, Sen. Werts seconded.

Sen. Karr stated that there are many issues relating to insurance coming up this session and that he is concerned about removing SB 16 at this time. The Chairman noted that when the guaranty fund was established, the tax offset was given to insurance companies. If the tax offset is removed now, it will involve considerable cost to insurance companies although it would increase the state general fund. On a call for a vote on the motion to report SB 16 adversely, the motion carried.

In regard to SB 139, heard yesterday, the Chairman determined that the substitute bill would be ready tomorrow and that the committee would have a short meeting for the introduction of the bill.

SB 173, introduced last session by Sen. Mulich and dealing with property insurance on automobiles. The Chairman informed the committee that Sen. Mulich will introduce another bill this session, but he does not want this bill killed. The bill was held in committee.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
room 529-S, Statehouse, at 9:00 a.m. ~~PM~~ on January 22, 1986.

SB 205, introduced by Sen. Francisco and dealing with a constituent's problem with automobile insurance. The Chairman explained the Insurance Department had investigated the problem since the hearing last session, and it was determined that the constituent had given Sen. Francisco erroneous information.

Sen. Werts made a motion to report SB 205 adversely, Sen. Strick seconded, and the motion carried.

SB 244, a truth in savings bill requiring financial institutions to provide a disclosure of how their interest is paid. The Chairman informed the committee that there is an identical bill in the House which had been heard last year with no action on it.

SB 250, public money pledging bill which is identical to HB 2122 passed last session.

Sen. Harder made a motion to report SB 250 adversely, Sen. Karr seconded, and the motion carried.

SB 274, a bill presented by Sen. Francisco for insurance coverage for certain aspects of diabetic treatment. It was converted into a Senate Concurrent Resolution last session and acted favorably upon. After an interim study this past summer, it was acted favorably upon again and is now in the House. The Chairman related to the committee that Sen. Francisco has no interest in raising the cost of insurance, and the resolution calls for information on cost to be prepared by next January. Thus, no action can be taken this session.

Sen. Reilly made a motion to report SB 274 adversely, Sen. Gordon seconded, and the motion carried.

SB 284, dealing with limitations on payments of offsets. Staff and the Chairman had no knowledge of the origin or background of the bill, and it was determined that more research is needed before action is taken on it.

SB 299, introduced at the request of many with the Kansas Health Carriers Association and deleting the "most favored nations" provision.

Sen. Gordon made a motion to report the bill adversely. There was no second.

SB 332, requested by Stan Lind for the consumer loan companies. The Chairman said that Mr. Lind no longer desires passage of the bill.

Sen. Werts made a motion to report SB 332 adversely, Sen. Gannon seconded, and the motion carried.

SB 357, introduced by the Senate Ways and Means Committee and dealing with the health care provider insurance availability act. The Chairman added that he had talked with the Insurance Department, and the Department is reluctant to allow the exemption involved because the request is not by an insurance company but an association. It was determined that a hearing is needed on the bill.

SB 360, also dealing with the health care provider insurance availability act insofar as the transfer of administration from the Insurance Commissioner to the Attorney General's office. The Chairman said the Attorney General's office would take the duty, but they feel that the administration belongs where it is now so a hearing is probably necessary.

Sen. Harder made a motion to report SB 360 adversely. There was no second.

SB 382, health care stabilization fund. The hearing will be held next week.

SB 408, coming from an interim committee and dealing with bonding of state employees. The bill became necessary due to a lack of control of funds and resulting losses.

SB 432, enacting the community resources security act. It would allow branch banking in communities of 750 or less where a bank had failed and there was not a purchaser for the bank. The hearing will be next week.

CONTINUATION SHEET

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room 529-S, Statehouse, at 9:00 a.m.~~pm~~ on January 22, 1986.

HB 2137, dealing with exemption from usuary statutes for loans over \$25,000. A hearing will be held on the bill soon.

Final action of the committee was to approve the minutes of the previous meeting.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS  
(Please print)

DATE NAME ADDRESS REPRESENTING

DATE	NAME	ADDRESS	REPRESENTING
1-22	Jim Junny	Topeka	KLSI
	Richard Funk	Topeka	KASB
	DVD CORREY	"	KCCJ
	Paul Night	"	KCUK
	Aori Callahan	"	AIA
	John Sprurgeon		Budget
	Chip Wheelen	Topeka	McGill + Assoc.s
	Markin Chubetz	Topeka	KML
	Susan Sittsom	Topeka	Tues Office
	Michael A. Skittman	Auburn	State Banking Dept
	Eric H. O'Connell	Topeka	State Banking Dept
	Jim Wang	"	KPA
	Gene Barnett	"	State Banking Dept

BILL NO. \_\_\_\_\_

AN ACT relating to banks and banking; concerning deposit of security or bonds; requiring certain reports; amending K.S.A. 9-509 and 9-901a and K.S.A. 1985 Supp. 9-1722 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 9-509 is hereby amended to read as follows: 9-509. No person shall engage in the business of selling, issuing, or delivering its check, draft, money order, personal money order, bill of exchange, evidence of indebtedness, or other instrument for the transmission or payment of money, or, except as provided in K.S.A. 9-510, and amendments thereto, act as agent for another in the transmission of money in the face amount of a check, draft, money order, personal money order, bill of exchange, evidence of indebtedness, or other instrument for the transmission or payment of money, as a service or for a fee or other consideration, unless:

(a) The net worth of such person is at all times not less than ~~one--hundred-thousand-dollars-(\$100,000)~~ \$100,000, as shown by a financial statement certified to by an owner, a partner or officer of the corporation or other entity in a form prescribed by the state bank commissioner and filed in the commissioner's office, ~~and;~~

(b) such person has deposited and at all times keeps on deposit with the state treasurer, or a bank in this state approved by the state bank commissioner, ~~twenty-five-thousand dollars-(\$25,000),--in-cash--or--securities--satisfactory--to--the state--bank--commissioner~~ cash or securities satisfactory to the state bank commissioner in an amount of \$50,000 plus an additional sum of \$5,000 for each location, in excess of one, at which such person proposes to conduct such business, but not to

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Attachment I

exceed \$200,000; and

(c) such person submits a list to the commissioner of the names and addresses of the selling agents of such person.

In lieu of such deposit of cash or securities, such person may give surety bond in the an amount of twenty-five-thousand dollars-(\$25,000) equal to that required for the deposit of cash or securities, in a form satisfactory to the state bank commissioner and issued by a company authorized to do business in this state, which bond shall run to the state of Kansas and be filed with the state bank commissioner. ~~Such~~ The deposit of cash or securities or surety bond shall be for the protection and benefit of purchasers or holders of instruments furnished by such person or for the protection of those for whom such person has agreed to act as agent in the transmission of money and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of money. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving ~~thirty-(30)~~ 30 days' notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said the cancellation. The state bank commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on said the deposit and shall have the right to substitute other securities satisfactory to the state bank commissioner. If the deposit is made with a bank, any custodial fees therefor shall be paid by such person. Said The financial statement shall be filed annually, and at the time of filing each such person shall pay to the state bank commissioner an annual fee of ~~one-hundred-dollars-(\$100.00)~~ ---Provided, \$100. The state bank commissioner may require any such person to file said a statement at more frequent intervals, but only the annual fee need be paid.

The bank commissioner shall have the right to examine the books and records of any person operating in accordance with the provisions of this act at such person's expense, and if it appears that such person's financial affairs are unsound so as to affect the solvency of such person's operations then the bank commissioner is authorized to obtain a restraining order, or a temporary or permanent injunction without bond, in any court of competent jurisdiction so as to prevent such person, or any agents of such person, from continuing in business.

Sec. 2. K.S.A. 9-901a is hereby amended to read as follows:  
9-901a. (a) For purposes of this section, the capital of a bank shall be the total of the aggregate par value of its outstanding shares of capital stock, its surplus, and its undivided profits.

(b) The minimum capital of a bank in existence on July 1, 1975, shall be ~~two-hundred-fifty-thousand-dollars-(\$250,000)~~ \$250,000 or such lesser amount as such bank had on July 1, 1975. With respect to a bank in existence on July 1, 1975, which thereafter transfers its place of business from one city to another, the minimum capital shall be the amount required by subsection (c) of this section.

(c) The minimum capital of a bank organized after July 1, 1975, or which thereafter transfers its place of business from one city to another, shall be at least ~~two-hundred-fifty-thousand dollars-(\$250,000)~~ \$250,000 or at least an amount equal to eight percent--~~(8%)~~ 8% of its estimated deposits five ~~(5)~~ years after its organization or transfer of place of business, whichever is greater, of which ~~sixty-percent-(60%)~~ 60% shall be the aggregate par value of its outstanding shares of capital stock, ~~thirty percent--(30%)~~ 30% its surplus, and ~~ten-percent-(10%)~~ 10% its undivided profits. The state banking board may require that the bank have capital in excess of the amounts specified in this subsection if the board determines that the amount and character of the anticipated business of the bank and the safety of its depositors so require.

(d) The minimum capital of a bank organized pursuant to subsection (b) of K.S.A. 9-1801, and amendments thereto, shall be

determined by the commissioner, provided that the successor bank has obtained deposit insurance from the federal deposit insurance corporation or its successor.

(e) Except as may be provided elsewhere in this act, no bank shall reduce voluntarily its capital stock or surplus below the amounts required by this section.

Sec. 3. K.S.A. 1985 Supp. 9-1722 is hereby amended to read as follows: 9-1722. (a) A notice of a proposed bank acquisition filed pursuant to K.S.A. ~~1984~~ 1985 Supp. 9-1721, and amendments thereto, shall contain the following information:

{a} (1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including such person's material business activities and affiliations during the past five years and a description of any material pending legal or administrative proceedings in which the person is a party and any criminal indictment or conviction of such person by a state or federal court;

{b} (2) a statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five three fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the filing of the notice. Individuals who own 10% or more shares in a bank holding company, as defined in K.S.A. 1985 Supp. 9-519, and amendments thereto, shall file the financial information required by this paragraph;

{c} (3) the terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

{d} (4) the identity, source and amount of the funds or other considerations used or to be used in making the acquisition and, if any part of these funds or other considerations has been



or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements or understandings with such persons;

{e} (5) any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management;

{f} (6) the identification of any person employed, retained or to be compensated by the acquiring party or by any person on such person's behalf to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition and a brief description of the terms of such employment, retainer or arrangement for compensation;

{g} (7) copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

{h} (8) any additional relevant information in such forms as the department may require by specific request in connection with any particular notice.

(b) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of a statement filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

Sec. 4. K.S.A. 9-509 and 9-901a and K.S.A. 1985 Supp. 9-1722 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Sec. 1. K.S.A. 9-1102 is hereby amended to read as follows:

9-1102. Any bank may purchase, encumber, and convey real estate...

Any bank may acquire real estate in satisfaction of any debts due it and may purchase real estate in satisfaction of any debts due it, and may purchase real estate at judicial sales, but no bank shall bid therefor at any judicial sale a larger amount than is necessary to protect its debts and costs. No real estate acquired in the satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank for more than ~~five~~ ten (10) years. At the termination of the ~~five (5)~~ ten (10) years such real estate shall be charged off. The commissioner may grant an extension thereof for an additional four (4) years, or any portion thereof, if in the commissioner's judgment it will be to the advantage of the bank to carry the real estate as an asset for such extended period.

Sec. 2. K.S.A. 9-1102 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas Register.

Section 1. K.S.A. 9-1111d is hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Attachment III