

Approved February 5, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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

9:00 a.m./~~p.m.~~ on February 4, 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:

Sen. Robert Talkington
Sen. Jim Allen
Stan Lind, Kansas Association of Financial Services
Roger Warden, Bankers Thrift and Loan Association

The minutes of January 31 were approved as corrected, changing "Gen." to "Sen." Gannon on page two.

The meeting began with a request for the introduction of a bill by Sen. Talkington. The bill would allow amortization of losses of banks over a five-year term instead of a one-year term as it is currently allowed. The bank would be required to outline steps which would allow them to remain solvent. This would be done under the approval of the Banking Commissioner. The purpose of the bill is to insure availability of banking service in the state, especially in the troubled rural areas.

Sen. Allen testified in support of the introduction of the bill saying that it would have a positive effect on the agricultural community. He noted that there will be federal guidelines to go along with the bill, and the end result would be to allow more funds in rural areas.

Sen. Strick asked if the FDIC is in agreement with the bill. Sen. Allen and Sen. Talkington agreed that although there would have to be changes made in some guidelines, the FDIC will ordinarily go along with the state law.

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

The hearing began on HB 2137 dealing with the contract rate of interest not applicable to certain loans over \$25,000. The Chairman explained that this House bill was being heard at this time due to the urgency of it and its introduction very late last session. Stan Lind, Kansas Association of Financial Services, testified in support of the bill using a set of statistics to support his testimony as to the need for the bill. (See Attachments I and II). Mr. Lind said the consumer finance companies have not made a sufficient return in the last five years, and this lack of earning will reduce the number of consumer finance companies doing business in Kansas. He also used the statistics to support his requests for amendments. He focused his testimony on the 3% origination fee on fixed term second mortgages in Kansas which are a disadvantage to consumer finance companies because of their inability to compensate for the expense.

The Chairman asked Mr. Lind what the justification to remove rate restrictions on loans over \$25,000 is other than the other states are doing it. Mr. Lind replied that the only area that the state should be involved in regulation of interest is to insure that the lender does not take advantage of the borrower, and the figure for this should be \$5,000 because only loans up to this point involve the necessitous borrower. Therefore, he feels the restriction is a needless regulation on the part of the state.

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 4, 1986.

The Chairman inquired about Mr. Lind's request for "plain language" on consumer credit contracts as to what would be considered as plain language. It may differ according to professions. Mr. Lind agreed with this, but said the degree of understanding would be in accordance with models established by respective departments to serve as a guide to the credit community. Following these guidelines would establish in court that an honest attempt had been made to make a simple contract. The Chairman asked if contract forms would need to be revised and the cost of doing so. Mr. Lind said many companies have already changed to plain language contracts. The contract language would not need to be approved by the appropriate commissioner, and the ultimate judge of them would be the court if the bill were enacted. The change would involve a considerable amount of money, and this is why the bill is to be effective as of 1988.

Sen. Gannon asked if the passage of this bill would bring the consumer finance companies of Kansas up to par with other companies. Mr. Lind answered that it would not because they are so far below the national average now. However, the origination fee would go a long way to compensate licensed lenders and to make fixed rate loans more favorable for borrowers. Sen. Gannon asked further if Mr. Lind knew what the 1985 growth statistics would be. Mr. Lind said that he did not know but would guess that there would not be a growth of more than .75 and added that he is amazed that as many companies have remained in business as have.

The hearing concluded with brief testimony from Roger Warden, Bankers Thrift and Loan Association, in support of HB 2137. He said the bill is a break even point for the lender and would put Kansas on the same level as surrounding states such as Colorado, Oklahoma, and Missouri.

The Chairman introduced a new appointee for the Consumer Credit Commissioner, Judy Stringer.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2-4-86	Jim Lane	Topeka	KBA
"	Harold Staver	Topeka	KBA
"	SB Lind	KCR	KAFCC
"	M. C. Winholtz	KCR Topeka	KUIC
"	Jimi Turner	Topeka	KLSI
"	Shawn Hoebman	Lawrence	—
"	Roger Worder	Overland Park	Bankers Thrift & Loan Assn.
"	Judith K. Stungler	Topeka	Consumer Credit Comm.
"	Mel Patton	"	" " "
"	Tom Robison	Jefferson City, Mo.	Beneficial
	Phil Anderson	Topeka	BUDGET DIV

Summary Explanation of the Purposes of H.B. 2137,
as Amended by the House, and of the Further Amendments
Proposed to the Senate Commercial & Financial Institutions Committee

1. Sections 1 and 2 of the attached H.B. 2137, as amended by the House, would deregulate all consumer credit over \$25,000. The two amendments to accomplish this are found on pages 3 and 6. Section 1 would amend what is generally called the usury statute and Section 2 would amend the rate section of the Uniform Consumer Credit Code. Should this be enacted, it would mean that all credit over \$25,000 would be deregulated, while all consumer credit under \$25,000 would be regulated. Today, all non-consumer credit is deregulated in Kansas.
2. The substantive amendments to H.B. 2137, as amended by the House, which the Senate Committee is asked to adopt are found on pages 3, 13, 14 and 15 of the attached pages. The amendments are:
 - The proposed amendment on page 3 is shown in balloon. This would restore the language of the bill to the way it was when originally introduced. The amendment by the House Committee was for the purpose of making the amendment as specific as possible but resulted in a contradiction of terminology.
 - Section 3, found on page 13 is the second proposed amendment to H.B. 2137. This would authorize a 3% origination fee on fixed term second mortgages and would impose a 3% ceiling on origination fees for adjustable rate second mortgages.
 - Section 4, found on pages 14 and 15, would require "plain English" in all consumer credit contracts, except contracts pertaining to the sale or improvement of real estate or to any loan agreement wherein real property is used as collateral.

Prepared by:

Stanley L. Lind
Kansas Assn. of Financial Services
(the state trade association of
consumer finance companies)

2/4/86 S. FI&I
Attachment I

As Amended by House Committee

Session of 1985

HOUSE BILL No. 2137

By Committee on Commercial and Financial Institutions

1-31

0018 AN ACT relating to interest rates; concerning applicability of
 0019 ~~contract rate~~ thereof to certain loans; amending K.S.A. 1984-5
 0020 Supp. 16-207 and 16a-1-301 and repealing the existing section
 0021 sections. 1 and 16a-2-401

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 1984 Supp. 16-207 is hereby amended to
 0024 read as follows: 16-207. (a) Subject to the following provision, the
 0025 parties to any bond, bill, promissory note or other instrument of
 0026 writing for the payment or forbearance of money may stipulate
 0027 therein for interest receivable upon the amount of such bond,
 0028 bill, note or other instrument of writing, at a rate not to exceed
 0029 15% per annum unless otherwise specifically authorized by law.
 0030 (b) The maximum rate of interest per annum for notes se-
 0031 cured by all real estate mortgages and contracts for deed to real
 0032 estate executed on or after the effective date of this act shall be at
 0033 an amount equal to 1½ percentage points above the yield of
 0034 thirty-year fixed rate conventional home mortgages committed
 0035 for delivery within 61 to 90 days accepted under the federal
 0036 home loan mortgage corporation's daily offerings for sale on the
 0037 last day on which commitments for such mortgages were re-
 0038 ceived in the preceding month unless otherwise specifically
 0039 authorized by law. Such interest rate shall be computed for each
 0040 calendar month and be effective on the first day thereof. The
 0041 secretary of state shall publish notice of such maximum interest
 0042 rate not later than the second issue of the Kansas register pub-
 0043 lished each month. The initial rate of interest upon any conven-
 0044 tional loan evidenced by a note secured by a real estate mortgage
 0045 shall not exceed the rate quoted in the application executed by
 0046 the borrower on the day on which application for such conven-

0047 tional loan is made.

0048 (c) No penalty shall be assessed against any party for pre-
 0049 payment of any home loan evidenced by a note secured by a real
 0050 estate mortgage where such prepayment is made more than six
 0051 months after execution of such note.

0052 (d) The lender may collect from the borrower: (1) The actual
 0053 fees paid a public official or agency of the state, or federal
 0054 government, for filing, recording or releasing any instrument
 0055 relating to a loan subject to the provisions of this section; and

0056 (2) reasonable expenses incurred by the lender in connection
 0057 with the making, closing, disbursing, extending, readjusting or
 0058 renewing of loans subject to the provisions of this section.

0059 (e) Any person so contracting for a greater rate of interest
 0060 than that authorized by this section shall forfeit all interest so
 0061 contracted for in excess of the amount authorized under this
 0062 section; and in addition thereto shall forfeit a sum of money, to
 0063 be deducted from the amount due for principal and lawful
 0064 interest, equal to the amount of interest contracted for in excess
 0065 of the amount authorized by this section and such amounts may
 0066 be set up as a defense or counterclaim in any action to enforce
 0067 the collection of such obligation and the borrower shall also
 0068 recover a reasonable attorney fee.

0069 (f) The interest rates prescribed in subsections (a) and (b) of
 0070 this section shall not apply to a business or agricultural loan. For
 0071 the purpose of this section unless a loan is made primarily for
 0072 personal, family or household purposes, the loan shall be con-
 0073 sidered a business or agricultural loan. For the purpose of this
 0074 subsection, a business or agricultural loan shall include credit
 0075 sales and notes secured by contracts for deed to real estate.

0076 (g) Loans made by a qualified plan, as defined in section 401
 0077 of the internal revenue code, to an individual participant in such
 0078 plan or to a member of the family of such individual participant,
 0079 are not subject to the interest rates prescribed in subsections (a)
 0080 and (b) of this section.

0081 (h) The interest rates prescribed in subsections (a) and (b) of
 0082 this section shall not apply to a note secured by a real estate
 0083 mortgage or a contract for deed to real estate where the note or

0084 contract for deed permits adjustment of the interest rate, the term
0085 of the loan or the amortization schedule.

0086 (i) ~~The interest rate rates prescribed in subsection (a) sub-~~
0087 ~~sections (a) and (b) shall not apply to a loan or a credit sale made~~
0088 ~~primarily for personal, family or household purposes~~ consumer
0089 transaction, as defined in K.S.A. 16a-1-301, and amendments
0090 thereto, where the amount financed exceeds \$25,000.

0091 Sec. 2. K.S.A. 1984 Supp. 16a-1-301 is hereby amended to
0092 read as follows: 16a-1-301. In addition to definitions appearing in
0093 subsequent articles, in K.S.A. 16a-1-101 through 16a-9-102, and
0094 amendments thereto:

0095 (1) "Actuarial method" means the method, defined by rules
0096 adopted by the administrator, of allocating payments made on a
0097 debt between the amount financed and the finance charge pur-
0098 suant to which a payment is applied first to the accumulated
0099 finance charge and the balance is applied to the unpaid amount
0100 financed.

0101 (2) "Administrator" means the administrator designated in
0102 the article (article 6) on administration (section 16a-6-103).

0103 (3) "Agreement" means the bargain of the parties in fact as
0104 found in their language or by implication from other circum-
0105 stances including course of dealing or usage of trade or course of
0106 performance.

0107 (4) "Amount financed" means the total of the following
0108 items:

0109 (a) In the case of a sale, the cash price of the goods, services,
0110 or interest in land, less the amount of any down payment
0111 whether made in cash or in property traded in, and the amount
0112 actually paid or to be paid by the seller pursuant to an agreement
0113 with the buyer to discharge a security interest in, a lien on, or a
0114 debt with respect to property traded in;

0115 (b) in the case of a loan, the net amount paid to, receivable
0116 by, or paid or payable for the account of the debtor, plus the
0117 amount of any discount excluded from the finance charge (para-
0118 graph (b) of subsection (18) of section 16a-1-301); and

0119 (c) in the case of a sale or loan, to the extent that payment is
0120 deferred and the amount is not otherwise included and is autho-

Amend subsection (i) to read as follows:

(i) The interest rates prescribed in subsections (a) and (b) shall not apply to a loan or a credit sale made primarily for personal, family or household purposes where the amount financed exceeds \$25000.

5

0121 rized and disclosed to the customer:

0122 (i) Amounts actually paid or to be paid by the creditor for
0123 registration, certificate of title, or license fees, and

0124 (ii) permitted additional charges (section 16a-2-501).

0125 (5) "Billing cycle" means the time interval between periodic
0126 billing statement dates.

0127 (6) "Cash price" of goods, services, or an interest in land
0128 means the price at which they are offered for sale by the seller to
0129 cash buyers in the ordinary course of business and may include
0130 (a) the cash price of accessories or services related to the sale,
0131 such as delivery, installation, alterations, modifications, and im-
0132 provements, and (b) taxes to the extent imposed on a cash sale of
0133 the goods, services, or interest in land. The cash price stated by
0134 the seller to the buyer in a disclosure statement is presumed to
0135 be the cash price.

0136 (7) "Closing costs" with respect to a debt secured by an
0137 interest in land includes:

0138 (a) Fees or premiums for title examination, title insurance, or
0139 similar purposes including surveys;

0140 (b) fees for preparation of a deed, settlement statement, or
0141 other documents;

0142 (c) escrows for future payments of taxes and insurance;

0143 (d) fees for notarizing deeds and other documents;

0144 (e) appraisal fees; and

0145 (f) credit reports.

0146 (8) "Conspicuous": A term or clause is conspicuous when it
0147 is so written that a reasonable person against whom it is to
0148 operate ought to have noticed it. Whether a term or clause is
0149 conspicuous or not is for decision by the trier of fact.

0150 (9) "Consumer" means the buyer, lessee, or debtor to whom
0151 credit is granted in a consumer credit transaction.

0152 (10) "Consumer credit sale":

0153 (a) Except as provided in paragraph (b), a "consumer credit
0154 sale" is a sale of goods, services, or an interest in land in which:

0155 (i) Credit is granted either by a seller who regularly engages
0156 as a seller in credit transactions of the same kind or pursuant to a
0157 credit card other than a lender credit card,

0158 (ii) the buyer is a person other than an organization,

0159 (iii) the goods, services, or interest in land are purchased
0160 primarily for a personal, family or household purpose,

0161 (iv) either the debt is by written agreement payable in in-
0162 stallments or a finance charge is made, and

0163 (v) with respect to a sale of goods or services, the amount
0164 financed does not exceed \$25,000.

0165 (b) A "consumer credit sale" does not include:

0166 (i) A sale in which the seller allows the buyer to purchase
0167 goods or services pursuant to a lender credit card; or

0168 (ii) unless the sale is made subject to K.S.A. 16a-1-101
0169 through 16a-9-102, and amendments thereto, by agreement (sec-
0170 tion 16a-1-109), a sale of an interest in land, other than sales
0171 governed by subsection (10)(b)(iii) of this section, if the finance
0172 charge does not exceed 12% per year calculated according to the
0173 actuarial method on the unpaid balances of the amount financed
0174 on the assumption that the debt will be paid according to the
0175 agreed terms and will not be paid before the end of the agreed
0176 term; or

0177 (iii) a sale by contract for deed of real estate the interest rate
0178 of which is governed by subsection (b) or (h) of K.S.A. 16-207,
0179 and any amendments thereto.

0180 (11) "Consumer credit transaction" means a consumer credit
0181 sale, consumer lease, or consumer loan or a modification thereof
0182 including a refinancing, consolidation, or deferral.

0183 (12) "Consumer lease": A "consumer lease" is a lease of
0184 goods:

0185 (a) Which a lessor regularly engaged in the business of leas-
0186 ing makes to a person, other than an organization, who takes
0187 under the lease primarily for a personal, family or household
0188 purpose;

0189 (b) in which the amount payable under the lease does not
0190 exceed \$25,000;

0191 (c) which is for a term exceeding four months; and

0192 (d) which is not made pursuant to a lender credit card.

0193 (13) "Consumer loan":

0194 (a) Except as provided in paragraph (b), a "consumer loan" is

0195 a loan made by a person regularly engaged in the business of
0196 making loans in which:

0197 (i) The debtor is a person other than an organization;
0198 (ii) the debt is incurred primarily for a personal, family or
0199 household purpose;

0200 (iii) either the debt is payable in installments or a finance
0201 charge is made; and

0202 (iv) either the amount financed does not exceed \$25,000 or
0203 the debt is secured by an interest in land.

0204 (b) Unless the loan is made subject to K.S.A. 16a-1-101
0205 through 16a-9-102, and amendments thereto, by agreement (sec-
0206 tion 16a-1-109), a "consumer loan" does not include:

0207 (i) A loan secured by a first real estate mortgage; or

0208 (ii) a loan secured by a second or other subordinate mortgage
0209 if the second or other subordinate mortgage is granted to the
0210 same lender as the first mortgage; or

0211 (iii) a loan made by a qualified plan, as defined in section 401
0212 of the internal revenue code, to an individual participant in such
0213 plan or to a member of the family of such individual participant.

0214 (14) "Credit" means the right granted by a creditor to a
0215 debtor to defer payment of debt or to incur debt and defer its
0216 payment.

0217 (15) "Credit card" means an arrangement pursuant to which
0218 a card issuer gives a cardholder the privilege of purchasing or
0219 leasing goods or services, obtaining loans, or otherwise obtaining
0220 credit from the card issuer or other persons.

0221 (16) "Creditor" means a person who regularly extends credit
0222 in a consumer credit transaction which is payable by a written
0223 agreement in more than four installments or for which the
0224 payment of a finance charge is or may be required and is the
0225 person to whom the debt arising from the consumer credit
0226 transaction is initially payable on the face of the evidence of
0227 indebtedness or, if there is no such evidence of indebtedness, by
0228 written agreement. In the case of credit extended pursuant to a
0229 credit card, the creditor is the card issuer and not another person
0230 honoring the credit card.

0231 (17) "Earnings" means compensation paid or payable to an

0232 individual or for such individual's account for personal services
0233 rendered or to be rendered by such individual, whether denom-
0234 inated as wages, salary, commission, bonus, or otherwise, and
0235 includes periodic payments pursuant to a pension, retirement, or
0236 disability program.

0237 (18) "Finance charge":

0238 (a) "Finance charge" means the sum of:

0239 (i) All charges payable directly or indirectly by the consumer
0240 and imposed directly or indirectly by the creditor as an incident
0241 to or as a condition of the extension of credit, including any of the
0242 following types of charges which are applicable; interest or any
0243 amount payable under a point, discount or other system of
0244 charges, however denominated; time price differential, service,
0245 carrying or other charge, however denominated; premium or
0246 other charge for any guarantee or insurance protecting the cred-
0247 itor against the consumer's default or other credit loss; and
0248 (ii) charges incurred for investigating the collateral or credit-
0249 worthiness of the consumer or for commissions or brokerage for
0250 obtaining the credit, irrespective of the person to whom the
0251 charges are paid or payable, unless the creditor had no notice of
0252 the charges when the credit was granted.

0253 (b) The term does not include:

0254 (i) Charges as a result of default, additional charges (section
0255 16a-2-501), delinquency charges (section 16a-2-502), or deferral
0256 charges (section 16a-2-503), or

0257 (ii) if a lender makes a loan to a debtor by purchasing or
0258 satisfying obligations of the debtor pursuant to a lender credit
0259 card and the purchase or satisfaction is made at less than the face
0260 amount of the obligation, the discount, or

0261 (iii) closing costs as defined in section 16a-1-301(7).

0262 (19) "Goods" includes goods not in existence at the time the
0263 transaction is entered into and merchandise certificates, but
0264 excludes money, chattel paper, documents of title, and instru-
0265 ments.

0266 (20) Except as otherwise provided, "lender" includes an
0267 assignee of the lender's right to payment but use of the term does
0268 not in itself impose on an assignee any obligation of the lender

0269 with respect to events occurring before the assignment.

0270 (21) "Lender credit card" means a credit card issued by a
0271 supervised lender.

0272 (22) "Loan":

0273 (a) Except as provided in paragraph (b), a "loan" includes:

0274 (i) The creation of debt by the lender's payment of or agree-
0275 ment to pay money to the debtor or to a third party for the
0276 account of the debtor;

0277 (ii) the creation of debt either pursuant to a lender credit card
0278 or by a cash advance to a debtor pursuant to a credit card other
0279 than a lender credit card;

0280 (iii) the creation of debt by a credit to an account with the
0281 lender upon which the debtor is entitled to draw immediately;
0282 and

0283 (iv) the forbearance of debt arising from a loan.

0284 (b) A "loan" does not include the payment or agreement to
0285 pay money to a third party for the account of a debtor if the debt
0286 of the debtor arises from a sale or lease and results from use of
0287 either a credit card issued by a person primarily in the business
0288 of selling or leasing goods or services or any other credit card
0289 which may be used for the purchase of goods or services and
0290 which is not a lender credit card.

0291 (23) "Merchandise certificate" means a writing issued by a
0292 seller not redeemable in cash and usable in its face amount in
0293 lieu of cash in exchange for goods or services.

0294 (24) "Official fees" means:

0295 (a) Fees and charges prescribed by law which actually are or
0296 will be paid to public officials for determining the existence of or
0297 for perfecting, releasing, or satisfying a security interest related
0298 to a consumer credit sale, consumer lease, or consumer loan; or

0299 (b) premiums payable for insurance in lieu of perfecting a
0300 security interest otherwise required by the creditor in connec-
0301 tion with the sale, lease, or loan, if the premium does not exceed
0302 the fees and charges described in paragraph (a) which would
0303 otherwise be payable.

0304 (25) "Open end credit" means an arrangement pursuant to
0305 which:

0306 (a) A creditor may permit a consumer, from time to time, to
0307 purchase goods or services on credit from the creditor or pursu-
0308 ant to a credit card, or to obtain loans from the creditor or
0309 pursuant to a credit card;

0310 (b) the unpaid balance of amounts financed and the finance
0311 and other appropriate charges are debited to an account;

0312 (c) the finance charge, if made, is not precomputed but is
0313 computed on the outstanding unpaid balances of the consumer's
0314 account from time to time; and

0315 (d) the consumer has the privilege of paying the balances in
0316 installments.

0317 (26) "Organization" means a corporation, government or
0318 governmental subdivision or agency, trust, estate, partnership,
0319 cooperative, or association.

0320 (27) "Payable in installments" means that payment is re-
0321 quired or permitted by agreement to be made in (a) two or more
0322 periodic payments, excluding a down payment, with respect to a
0323 debt arising from a consumer credit sale pursuant to which a
0324 finance charge is made, (b) four or more periodic payments,
0325 excluding a down payment, with respect to a debt arising from a
0326 consumer credit sale pursuant to which no finance charge is
0327 made, or (c) two or more periodic payments with respect to a
0328 debt arising from a consumer loan. If any periodic payment other
0329 than the down payment under an agreement requiring or per-
0330 mitting two or more periodic payments is more than twice the
0331 amount of any other periodic payment, excluding the down
0332 payment, the consumer credit transaction is "payable in install-
0333 ments."

0334 (28) "Person" includes a natural person or an individual, and
0335 an organization.

0336 (29) "Person related to" with respect to an individual means
0337 (a) the spouse of the individual, (b) a brother, brother-in-law,
0338 sister, sister-in-law of the individual, (c) an ancestor or lineal
0339 descendant of the individual or the individual's spouse, and (d)
0340 any other relative, by blood, adoption or marriage, of the indi-
0341 vidual or such individual's spouse who shares the same home
0342 with the individual. "Person related to" with respect to an

0343 organization means (a) a person directly or indirectly controlling,
 0344 controlled by or under common control with the organization, (b)
 0345 an officer or director of the organization or a person performing
 0346 similar functions with respect to the organization or to a person
 0347 related to the organization, (c) the spouse of a person related to
 0348 the organization, and (d) a relative by blood, adoption or mar-
 0349 riage of a person related to the organization who shares the same
 0350 home with such person.

0351 (30) "Precomputed": A finance charge or consumer credit
 0352 transaction is "precomputed" if the debt is expressed as a sum
 0353 comprising the amount financed and the amount of the finance
 0354 charge computed in advance.

0355 (31) "Presumed" or "presumption" means that the trier of
 0356 fact must find the existence of the fact presumed unless and until
 0357 evidence is introduced which would support a finding of its
 0358 nonexistence.

0359 (32) "Sale of goods" includes any agreement in the form of a
 0360 bailment or lease of goods if the bailee or lessee agrees to pay as
 0361 compensation for use a sum substantially equivalent to or in
 0362 excess of the aggregate value of the goods involved and it is
 0363 agreed that the bailee or lessee will become, or for no other or a
 0364 nominal consideration has the option to become, the owner of
 0365 the goods upon full compliance with such bailee's or lessee's
 0366 obligations under the agreements.

0367 (33) "Sale of an interest in land" includes a lease in which
 0368 the lessee has an option to purchase the interest and all or a
 0369 substantial part of the rental or other payments previously made
 0370 by the lessee are applied to the purchase price.

0371 (34) "Sale of services" means furnishing or agreeing to fur-
 0372 nish services and includes making arrangements to have services
 0373 furnished by another.

0374 (35) "Seller": Except as otherwise provided, "seller" in-
 0375 cludes an assignee of the seller's right to payment but use of the
 0376 term does not in itself impose on an assignee any obligation of
 0377 the seller with respect to events occurring before the assign-
 0378 ment.

0379 (36) "Services" includes (a) work, labor, and other personal

0380 services, (b) privileges with respect to transportation, hotel and
 0381 restaurant accommodations, education, entertainment, recre-
 0382 ation, physical culture, hospital accommodations, funerals, cem-
 0383 etery accommodations, and the like, and (c) insurance.

0384 (37) "Supervised financial organization" means a person,
 0385 other than an insurance company or other organization primarily
 0386 engaged in an insurance business:

0387 (a) Organized, chartered, or holding an authorization certifi-
 0388 cate under the laws of this state or of the United States which
 0389 authorize the person to make loans and to receive deposits,
 0390 including a savings, share, certificate or deposit account; and

0391 (b) subject to supervision by an official or agency of this state
 0392 or of the United States.

0393 (38) "Supervised lender" means a person authorized to make
 0394 or take assignments of supervised loans, either under a license
 0395 issued by the administrator (section 16a-2-301); or as a super-
 0396 vised financial organization (section 16a-1-301(37)) or as an agri-
 0397 cultural credit corporation (section 16a-2-301).

0398 (39) "Supervised loan" means a consumer loan, including a
 0399 loan made pursuant to open end credit, in which the rate of the
 0400 finance charge, calculated according to the actuarial method,
 0401 exceeds 12% per year.

0402 (40) "Written agreement" means an agreement such as a
 0403 promissory note, contract or lease that is evidence of the indebt-
 0404 edness. A letter that merely confirms an oral agreement does not
 0405 constitute a written agreement for purposes of this subsection.

Section 3. 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 $\frac{1}{30}$ th 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)

Section 3 (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.

New Sec. 4. (1) On and after January 1, 1988, every agreement evidencing a consumer credit transaction shall be written in a clear and coherent manner using words with common and everyday meaning and each of the sections of all such agreements shall be appropriately divided and captioned, except that any such caption shall not be used by any court in the interpretation of any such agreement.

(2) Any creditor, seller or lessor who fails to comply with this section shall be liable to the consumer who is a party to any such written agreement which is governed by this section in an amount equal to any actual damages sustained by the consumer plus a civil penalty of \$50. The total class action penalty against any such creditor, seller or lessor shall not exceed \$10,000 in any class action or series of class actions arising out of the use by a creditor, seller or lessor of an agreement which fails to comply with this section. No action under this section may be brought after both parties to the agreement have fully performed their obligation under such agreement, nor shall any creditor, seller or lessor who attempts in good faith to comply with this section be liable for such penalties.

(3) This section shall not apply to agreements involving amounts financed in excess of \$25,000 or to agreements pertaining to the sale or improvement of real estate or to any loan agreement wherein real property is used as collateral nor shall it prohibit the use of words or phrases or forms of agreement required by state or federal law, rule or regulation or by a governmental instrumentality.

(4) A violation of the provisions of this section shall not render any such agreement void or voidable nor shall it constitute a defense to any action or proceeding for the breach of such agreement or to enforce such agreement.

(5) Each state agency shall develop model forms of agreements which are sufficient for governing the rights, duties and obligations of parties to transactions which are under its jurisdiction, and publish same in the Kansas register no later than July 1, 1987, provided, that all such agencies are authorized to collectively develop and publish any such model forms in the interest of uniformity. The model forms of agreements shall indicate the simplicity and brevity in the form and content of agreements which this act contemplates and shall be for illustration only.

(6) As used in this section, the term "state agency" means the state bank commissioner, the savings and loan commissioner, the administrator of the state department of credit unions and the consumer credit commissioner.

Sec. 2.3.5. K.S.A. 1985 Supp. 16-207, ~~is~~ and 16a-1-301 and 16a-2-401 are hereby repealed.

Sec. 3.4.6. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS SUPPLEMENTAL MEASUREMENT OF NET EARNINGS
For the Years 1979 Through 1984

	1984	1983	1982	1981	1980	1979
1. Average assets (per annual report) ..	\$352,318,466	\$331,054,635	\$332,977,545	\$340,161,392	\$341,526,655	\$311,802,191
2. Net earnings	\$ 1,404,081	\$ 663,057	\$ (332,301)	\$ (855,080)	\$ 1,477,279	\$ 4,793,824
3. Net earnings as a percent of average assets (Item 2 ÷ Item 1)40%	.20%	(.10%)	(.25%)	.43%	1.54%
4. Average net loans outstanding (per annual report)	\$333,576,635	\$311,038,355	\$312,563,296	\$319,480,633	\$324,759,847	\$300,264,742
5. Net earnings as a percent of average net loans outstanding (Item 2 ÷ Item 4)42%	.21%	(.11%)	(.27%)	.45%	1.60%
Yearly Average Prime Rate*	12.04%	10.79%	14.86%	19.45%	15.27%	12.67%
Average annual cost of borrowing to the licensee	11.08%	10.37%	12.21%	12.27%	11.24%	10.02%

* As reported by the 10th District Federal Reserve Board.

- 1 -

2/4/86 S.F.I&I
Attachment II

CONSUMER FINANCE (DIRECT CASH LENDING) COMPANY RATIOS

Statement Date		12-31 1980	12-31 1981	12-31 1982	12-31 1983	12-31 1984		
Volume for Period (Millions)	26	14,070	10,392	8,547	8,728	10,426		
Total Outstandings (Millions)	27	18,741	18,204	18,065	18,417	21,263		
Average Net Receivables (Millions)	28	1,070	1,146	1,125	1,063	1,424		
% Gross Finance Revenue to Average Net Receivables	29	23.92	24.69	25.44	27.64	28.31		
% Operating Expenses (Excluding Loss Provision) to Average Net Receivables	30	9.36	10.34	9.88	9.97	9.76		
% Loss Provision to Average Net Receivables	31	2.78	2.56	2.38	2.14	1.77		
% Interest Expense to Average Net Receivables	32	9.57	11.23	10.25	9.14	9.98		
% Net Finance Profit to Average Net Receivables	33	1.36	1.12	2.05	3.19	3.43		
% Consolidated Net Income to Average Net Worth	34	10.88	9.40	13.57	18.26	18.35		
% Dividends to Consolidated Net Income	35	35.20	38.00	35.77	32.24	34.96		
% Subordinated Term Debt to Capital Funds	36	32.30	30.16	29.72	30.03	32.66		
% Preferred Stock to Capital Funds	37	5.92	7.08	8.09	5.00	4.79		
% Common Stock to Capital Funds	38	2.22	2.55	2.63	2.20	2.38		
% Capital and Earned Surplus to Capital Funds	39	59.56	60.21	59.56	62.77	60.17		
% Interest and Debt Expenses to Average Total Borrowings	40	N/A	12.32	11.81	10.28	10.63		
Ratio—Times Fixed Charges Earned	41	1.35	1.24	1.42	1.71	1.62		

Name of Company Composite Companies

ANALYSIS OF CONSUMER LOANS BY SIZE
December 31, 1984

	Number	Percent of total number	Amount	Percent of total
Loans made during the year:				
Loans of \$600 or less	14,085	14.35%	\$ 5,186,250	1.83%
Loans of \$601 to \$1,900	42,243	43.05	48,479,014	17.10
Loans of \$1,901 to \$5,000	30,230	30.81	88,521,437	31.23
Loans of \$5,001 to \$10,000	6,610	6.73	43,806,950	15.46
Loans above \$10,000	4,965	5.06	97,440,353	34.38
Total loans made during the year	98,133	100.00%	\$283,434,004	100.00%

ANALYSIS OF TYPES OF SECURITY

	Number	Percent of total number	Amount	Percent of total
Loans made during the year secured by:				
Household goods	25,985	26.48%	\$ 47,726,717	16.84%
Automobiles	10,588	10.79	35,330,805	12.47
Household goods & automobiles	6,882	7.01	23,690,561	8.36
Signature	34,956	35.62	61,375,834	21.65
Real Estate	6,435	6.56	85,062,200	30.01
Mobile Homes	169	.17	907,003	.32
Other	13,118	13.37	29,340,884	10.35
Total	98,133	100.00%	\$283,434,004	100.00%

COMPARISON OF THE KANSAS UNIFORM CONSUMER CREDIT CODE
 LOAN RATES WITH THE OTHER UCCC STATES
 JANUARY 1986

STATE	First Step	Second Step	Third Step	Alternate Rate	Revolving Rate
KANSAS	36% to \$570	21% to \$1900	14.45% to \$25000	18% Temporarily 21% sunsets 7-1-87	36-21-14.45% on the same steps shown opposite or 18% Temporarily 21%
COLORADO	36% to \$630	20% to \$2100	15% to \$25000	21%	21%
UTAH	No Limit	No Limit	No Limit	No Limit	No Limit
OKLAHOMA	30% to \$630	21% to \$2200	15% to \$45000	21%	30-21-15% on the same steps as shown opposite or 21%
IDAHO	No Limit	No Limit	No Limit	No Limit	No Limit
INDIANA	36% to \$720	21% to \$2400	15% to \$60000	21%	18%
WYOMING	36% to \$1000	21% to \$25000	N/A	N/A No Limit Over \$25000	Same as Columns 1 & 2
SOUTH CAROLINA	No Limit	No Limit	No Limit	No Limit	No Limit

Consumer Credit Rate Deregulation as of 1-1-86

<u>Alabama</u>	no limit over \$2,000
<u>Alaska</u>	no limit over \$10,000
<u>Arizona</u>	no limit
<u>California</u>	no limit over \$2500
<u>Connecticut</u>	no limit over \$5,000 or for real estate loans, but small loan licensees limited to 24% per year
<u>Delaware</u>	no limit
<u>Georgia</u>	not more than 5% per month over \$3,000
<u>Idaho</u>	no limit over UCCC
<u>Illinois</u>	no limit; 3% maximum points on real estate over \$3,000
<u>Indiana</u>	no limit over UCCC maximum of \$60,000
<u>Iowa</u>	no limit over \$25,000 on consumer loans or real estate purchases or improvements
<u>Kentucky</u>	no limit over \$15,000
<u>Maine</u>	no limit, except consumer loans to \$57,000
<u>Minnesota</u>	no limit over \$100,000 or on first home mortgage until 8-1-87
<u>Massachusetts</u>	Bank and other regulated lenders exempt
<u>Montana</u>	no limit
<u>Nebraska</u>	no limit over \$25,000, or on real estate, business or agricultural loans
<u>Nevada</u>	no limit
<u>New Hampshire</u>	no limit over \$1,500 for loans or for sales, including motor vehicles
<u>New Jersey</u>	no limit, except 30% criminal usury law
<u>New Mexico</u>	no limit
<u>New York</u>	no limit, except (perhaps) 25% criminal usury new consumer rates to \$2,500 after 6-30-87
<u>North Carolina</u>	no limit over \$25,000 or over \$10,000 on home mortgages
<u>North Dakota</u>	no limit for consumer finance companies over \$1,000
<u>Ohio</u>	no limit over \$100,000
<u>Oregon</u>	no limit
<u>Pennsylvania</u>	no limit over \$50,000
<u>South Dakota</u>	no limit
<u>Utah</u>	no limit
<u>Virginia</u>	no limit for first mortgage and business loans and for loans over \$5,000 by financial institutions
<u>Wisconsin</u>	no limit till 10-31-87

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	2.5+1.0	10.875	2.5+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