

Approved _____

Date

Clyde Graeber 2/25/87

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS.

The meeting was called to order by Clyde D. Graeber at _____
Chairperson

3:30 ~~xm~~/p.m. on February 24, 1987 in room 527-S of the Capitol.

All members were present except:

Committee staff present: Bill Wolff, Research Department
Bruce Kinzie, Revisor of Statutes
Myrta Anderson, Research Department
June Evans, committee secretary

Conferees appearing before the committee: Representative David J. Heinemann
Karen Hiller, Topeka Housing Information Center
Consumer Credit Counseling Service
Representative Dale M. Sprague
Stanley Lind, Kansas Associated Financial Service

Chairman Clyde Graeber opened the meeting.

Final action was taken on H.B. 2319. Representative Kenneth Green moved and Representative L. V. Roper seconded that the bill be amended to read: "shall be void after 180 days from date of issuance," replacing "shall be void after one year from date of issuance, unless a shorter period of time is selected. The motion carried.

Representative Kenneth Francisco moved and Representative Ivan Sand seconded to amend wording to read, "at the end of the expiration date that a refund will be made upon request." The motion carried.

Representative Green moved and Representative Roenbaugh seconded that this bill be moved out of committee favorably as amended. The motion carried.

Hearing on H.B. 2323. Representative Dale M. Sprague testified for the bill; this bill would help people work out their debt problems with creditors for a fee to be regulated. (Attachment I).

Karen Hiller, Consumer Credit Counseling Service, testified against H.B. 2323 testifying there is no need for the service, it is currently available from her counseling service; therefore, there is no need for this legislation. (Attachment II)

After discussion by the committee the hearing was closed.

Hearing on H.B. 2397. Stan Lind, Kansas Associated Financial Service, testified recommending an amendment to the bill.

After discussion, Tim Shallenburger moved and L. V. Roper seconded that H.B. 2397 be moved out of committee favorably. The motion carried.

Representative Kenneth Francisco testified this is not the answer; there are other alternatives (Attachment III).

Representative Bob Ott moved and Representative Ivan Sand seconded a substitute motion to table this action. The motion carried.

Representative Ivan Sand moved and Representative Lawrence Wilbert seconded that the minutes of the February 18 and 19 meetings be approved.

The meeting adjourned at 4:40 P.M.

The next meeting will be February 25, 1987.

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GARNER E. SHRIVER
MEMBER OF CONGRESS
(1961-1977)

October 29, 1986

State Representative Dale Sprague
Warren Place
P.O. Box 119
McPherson, Kansas 67460

Re: Proposed Legislative Change Regarding
K.S.A. 21-4402

Dear Dale:

This letter is to request your consideration for review of the above statute. The statute, as it is currently written, precludes providing budget management services to individuals for a fee, except for attorneys. I feel the limitation effectively excludes any type of budget management service for individuals in financial difficulties.

I have provided budget management services to several individuals over the past few years but am no longer taking new clients for that service because it is not economically wise at the standard hourly rate, and the individuals with financial problems cannot afford to pay an attorney the standard hourly rate for the amount of time involved with budget management. I know of no other attorneys in McPherson that provide any type of budget management, therefore, without access to others providing this service, debtors are left to fend for themselves.

I am also principal stockholder in a collection agency and feel that such a service could be provided very effectively from that type of perspective. At the present time, however, budget management cannot be done if the debtor is to be charged, and it does not seem equitable to charge the merchant an additional cost of doing business to support the debtors' financial problems. I am confident that most collection agencies or similar organizations could provide a beneficial service to persons with financial difficulties at a reasonable fee. The end result would benefit all involved.

ATCH I

State Representative Dale Sprague
October 29, 1986
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I ask that you investigate the possibility of a legislative change to K.S.A. 21-4402 to allow businesses to charge debtors for budget management services. Thank you for your attention to this.

Very truly yours,



David G. Shriver

DGS:ns

143	2323
Fiscal Note	Bill No.
1987 Session	
February 20, 1987	

The Honorable Clyde Graeber, Chairperson
Committee on Commercial and Financial Institutions
House of Representatives
Third Floor, Statehouse

Dear Representative Graeber:

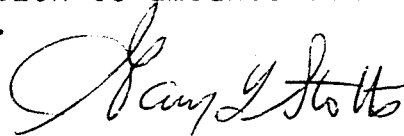
SUBJECT: Fiscal Note for House Bill No. 2323 by
Representative Sprague

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2323 is respectfully submitted to your committee.

House Bill No. 2323 establishes, statutorily, the concept of a budget management company, and the criteria necessary for licensure to do business in Kansas as such a company.

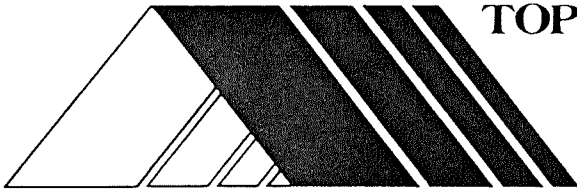
Passage of this bill would have an impact on the Office of the Consumer Credit Commissioner given the requirement of a \$20 registration fee to be paid to the agency and the requirement of the agency to administer the regulation process.

Sufficient information is not currently available concerning the number of entities that would form budget management companies and consequently, reliable estimates of the additional revenues that may be generated or the additional costs that may be incurred are not possible. Any increase in revenues or expenditures would be in addition to amounts contained in the FY 1988 Governor's Budget Report.



Gary L. Stotts
Acting Director of the Budget

GLS:JS:ks



TOPEKA HOUSING INFORMATION CENTER

CONSUMER CREDIT COUNSELING SERVICE

Testimony re: HB 2323 - February 24, 1987

Kansas is currently one of 30 states plus the District of Columbia, that prohibit fee-based for-profit "professional pro-raters". We are concerned that the changes proposed by HB 2323 may be unnecessary and unwise at this time for the following reasons:

- 1) Kansas is already served by member agencies of a regulated nationwide network of non-profit Consumer Credit Counseling Services. Services within Kansas are located in Topeka and Salina; Kansans can also utilize services in Kansas City (Missouri), Omaha, Lincoln, Denver, Oklahoma City, and Tulsa. All of these services operate in compliance with existing state laws.
- 2) In defiance of current state law, at least in metro areas of Kansas, unscrupulous for-profit debt adjusters are operating now. Some have been around awhile, some come and go. They tell people they can help get them out of debt if the people will bring them so much money per month and pay a monthly fee (usually set at 10-15% of the monthly gross payment). The plans we have seen have not usually involved all of the creditors and have offered such ridiculously low payments that clients' debts were growing instead of shrinking. Making unregulated fee-based debt adjustment legal would simply encourage this type of activity.
- 3) National legislation to restrict the recent proliferation of "credit clinics" was introduced just last month. These "clinics" claim, for a fee, to be able to "clean up" your bad credit rating for you. We do not want to encourage the start of something many states, and now Congress, are trying to stop.
- 4) The costs involved in setting up and staffing even a limited regulatory function could be significant. In this time of fiscal austerity for the state of Kansas, why get into it if the need is being met now with adequate private sector regulation?

If you have any further questions about the above points, or about Consumer Credit Counseling, please don't hesitate to contact the Topeka Housing Information Center at 913/234-0217.

Lawrence T. Buening, President of the Board

Karen A. Hiller, Executive Director



TO: Representative Ken Francisco

FROM: Don Reif

RE: Credit Card Interest Rates
(February 9, 1987)

There has been a groundswell of consumer pressure to lower the maximum rate that credit card issuers charge for the use of their services. According to data from the Bankcard Holders of America, the national average for credit card interest rates is 18.8% (August, 1986 figures). This rate is in effect despite significant drops in rates that banks have to pay for the money they borrow to lend out to the consumers.

Another study based upon research conducted by the Federal Reserve Board and others found that in 1985 banks made \$3.6 billion in profits from their credit card business. This figure belies the banking industry's claim that credit card issuers must charge 18.5% or higher in order to make a profit.

Kansas did make an initial reaction to this problem in the 1986 Session of the Legislature by passing a law (K.S.A. 16a - 2 - 403) which banned surcharges on credit cards. Other states including Connecticut, Iowa, Rhode Island, Virginia and Wisconsin passed laws which limited interest rates, banned surcharges or required better disclosure of rates and other terms in credit card advertising.

Kansas statutory law concerning the interest rates charged on credit cards or credit transactions are covered by K.S.A. 16a-2-201, 16a-2-202 and 16a-2-401. These three statutes cover credit charges incurred through either open end credit or installment credit. These statutes cover credit interest rates charged by either sellers, lenders or supervised lenders. In 16a-2-401, a supervised lender is one whom by paying a licensing fee to the consumer credit commissioner can charge a higher rate of interest than is normally allowed.

These three provisions provide for the maximum rate of interest that can be charged according to a series of blended rates. These rates decrease as the amount of the unpaid balance increases. As an alternative, the law provides that creditors can charge a flat rate of interest on the unpaid balance. However, there are sunset provisions in the statutes concerning these alternative rates. These provisions expire on July 1, 1987. After that date, absent legislative action, the rates that can be charged will revert back to the blended rates.

There is one exception here. Under 16a-2-401, non-licensed lenders can charge interest rates pursuant to Section 1. Licensed lenders can charge pursuant to Section 2. As in 16a-2-201 and 202, there is an alternative rate with a sunset provision. However, this provision only applies to these licensed or supervised lenders. After July 1, 1987, licensed or supervised lenders will lose the option of the 21% interest rate but can fall back to the 18% rate in Section 2(d). Section 1 will still apply to lenders who are not licensed.

It is vitally important to remember that these limitations imposed by the State of Kansas only apply to credit card issuers, domiciled within Kansas. Therefore, the State can really only affectively regulate state chartered institutions as federal law applies to federally chartered institutions. Further, other out-of-state credit card issuers have to comply with the laws of the state in which they are located not with the laws of Kansas even though they are doing business here. There is a twist to this as will be discussed later. For example, Citibank extensively lobbied the State of South Dakota to abolish all interest rate caps. As a result, Citibank moved its credit card operation to South Dakota. Some have argued that Citibank with the "hands off" policy in South Dakota has not dramatically increased their interest rates, saying competition is the best way to offer consumers lower rates without rigid government controls. They argue further that issuers have not dropped their rates significantly because they must make up for losses from delinquent or charged-off accounts. The \$3.6 billion profit gain seems to reject their notion.

Consumer confusion seems to be a major contributor to the problem. Many consumers do not realize, for example, that the same credit card, issued by a different bank can have different interest rates and terms. Passage by the Legislature of laws requiring greater disclosure may be advisable. Federal law seems to cover the area fairly well but as Representative Graeber pointed out, the print is so small that consumers can't read it or won't read it.

Laws requiring bank and retail credit card issuers to make clear in mailed advertisements and solicitations such cost elements as annual percentage rates, yearly fees, grace periods, etc., could go a long way in lowering credit card interest rates. By forcing greater disclosure, consumers will become more aware of the charges they are paying and thus avoid obtaining credit cards from those issuers who are charging in excess. This greater public awareness could spur competition among those who issue credit; thus possibly avoiding extensive interest rate caps. These credit card issuers and other credit issuers may well be forced to lower their rates on their own without legislative action.

Another approach that has been advocated is one that somehow ties the interest rate charged by the credit card issuers to the prime interest rate or some other figure. This variable rate schedule is used in several states. Arkansas ties the interest rate to the Federal Reserve Board's discount rate plus 5% with a maximum rate that can ever be charged of 17%. Texas adjusts the interest rate quarterly tied to the 26 week T-Bill. Other states have considered a floating rate with a floor in which the rate could never go below.

There are two immediate problems with this variable rate option. First of all, it would probably be an administrative nightmare for credit card issuers in constantly having to determine what they can charge. Secondly, a decision would have to be made whether this fluctuating rate applies to outstanding balances existing at the time the rate changed or only those balances incurred after the changed rate goes into effect.

Another twist in this complicated maze is the "most favored lender" doctrine. This is found in Federal case and statutory law and is supported in Kansas by Attorney General opinions. Under this doctrine, any out-of-state credit card issuer can charge the maximum rate allowed by law in Kansas. This rate is 36% as applied to supervised lenders as found in K.S.A. 16a-2-401. Under this doctrine, creditors are free to choose to follow the laws of their own state or the maximum rate charged by the state in which they are issuing the card, whichever is higher.

There seems to be a variety of options the Legislature can pursue including but not intending to be exclusive.

1. Lower the rates across the board.
2. Provide for a flat rate across the board for all credit transactions in Kansas.
3. Let the sunset provisions expire or extend them.
4. Mandate that all credit issuers provide a grace period in which no finance charge will be incurred if the balance is paid within a certain period of time.
5. Tie in the interest rate to some other rate such as the prime interest rate.
6. Require greater disclosure of rates and terms and do away with the "fine print".
7. A uniform federal law would be the best way to regulate this area. However, there have been several futile attempts to do this in Congress. Until such federal action, states will be forced to deal with this problem the best way they can.

In conclusion, this memo is not intended to be a comprehensive analysis of this problem. Persons with much better backgrounds and experience can provide much more in-depth information. Instead, it is my hope that you, at least, have a preliminary grasp of this very complex and deep-seated problem.