

Approved February 11, 1987
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 February 10, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Mel Batton, Assistant Consumer Credit Commissioner
Ron Todd, Kansas Insurance Department
Wayne Morris, Security Benefit Life Insurance Company
Bud Cornish, Kansas Life Association

The minutes of February 5 were approved.

The hearing began on SB 84 dealing with loss of employment insurance with the testimony in support of the bill by Mel Batton, Assistant Consumer Credit Commissioner.
(See Attachment I.)

The chairman asked Mr. Batton if it wouldn't be difficult to establish a rate for this type of insurance, and Mr. Batton replied that this is up to the Insurance Department. Sen. Werts asked further what the rate would be for loss of employment insurance. Mr. Batton did not know but said that he had seen it in other states where the rate is equivalent to accident and health insurance. Sen. Werts then inquired as to who requested the bill, and Mr. Batton answered that it came from the industry which was wanting to write this type of insurance.

Mr. Batton continued with the final portion of his testimony. Staff gave brief background regarding arrangers of credit.

Sen. Werts asked what license it takes to sell unemployment insurance. Ron Todd of the Kansas Insurance Department answered that it is a casualty insurance. Sen. Werts then began a discussion of what the rates would be and how they would be established. Mr. Todd did not have this information but said the department had had some filings on this, and he would check to see what rates were being used. Sen. Werts then asked Mr. Todd if he knew the margin of profits for the agents. Mr. Todd said their records would not indicate commissions but that he would attempt to find this information. The chairman said that he would guess that most of unemployment coverage sold is sold on the basis of average weekly pay so it may be that it is not possible to get a good picture. Mr. Batton said he would check with other states and report his findings to the committee this coming Thursday. With this, the hearing was concluded on SB 84.

Attention was turned to SB 99 concerning interest payable on death proceeds. Wayne Morris, Security Benefit Life Insurance Company, testified in support of the bill noting that it is a clean up bill amending paragraph (c) to make the notice provision in agreement with substantive subsection (a). (See Attachment II.) He introduced Debbie Watts of SBL who deals with claims to assist in any questions the committee might have. Sen. Reilly questioned her regarding proof of death. Mrs. Watts explained that a certified copy of the death certificate is proof enough for the payment of a claim and that it is possible to get the certificate in a short amount of time. Sen. Strick asked if the interest that could be due would be simple or compounded daily, and Mrs. Watts answered simple.

Ron Todd, Kansas Insurance Department, followed with further testimony in support of SB 99. Mr. Todd explained the background of the bill with reference to Proposal No. 3

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 10, 1987.

which had been submitted at an earlier meeting by Dick Brock also with the Insurance Department, (January 27, Attachment IV.), stressing the ambiguity of the language which is the purpose for the bill.

With regard to lines 41 and 42 of the bill, Sen. Werts commented that it looks as if it has gone from ambiguity to ambiguity. He asked Mr. Todd to read the language aloud and explain "receipt of due proof of death". Mr. Todd read the lines and said Sen. Werts had a good point. He was in agreement with Sen. Werts that it should be changed to "from the date of receipt of proof of death".

Bud Cornish, Kansas Life Association, stated his support for SB 99.

Sen. Werts made a motion to amend SB 99 to restore "the date" and add "of", Sen. Reilly seconded, and the motion carried.

Sen. Reilly made a motion to recommend SB 99 favorable as amended, Sen. Warren seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/10	Mel Beath	Topeka	Consumer Credit Bank
"	Judith P Stungen	"	" " "
"	Wayne D. Morris	Topeka	Security Benefit Life Ins. Co.
2/10	Debra Watts	Topeka	Security Benefit Life Ins. Co.
"	LM CORNISH	"	Ks Life Assn

February 10, 1981

STATEMENT OF MEL BATTIN
ASSISTANT CONSUMER CREDIT COMMISSIONER
ON SENATE BILL NO. 84

Senate Bill 84, if enacted, would include in the additional charge section, 16a-2-501, of the Kansas Uniform Consumer Credit Code "loss of employment" insurance coverage as a permissible charge in addition to the finance charge. This section, at the present time, permits credit life and accident & health insurance coverage as a permissible additional charge.

Section 16a-4-103 of the code defines consumer credit insurance as "insurance other than insurance on property, by which the satisfaction of the debts in whole or in part is a benefit provided".

The 1973 comments to that section states: "The usual forms of consumer credit insurance provides benefits conditioned on the death or disability of the debtor, the contracts being described as credit life insurance and credit accident & health insurance. The insured event might also be loss of earnings in other ways, as by the loss of employment".

Loss of employment insurance fits within the definition of consumer credit insurance and the Kansas comments gives credence to the fact that the "loss of income" insurance might be permitted by the code. We may have been able to promulgate a regulation rather than come to you.

Since loss of employment insurance is a new concept in Kansas, and to avoid the appearance of attempting to make law by promulgating a regulation, we would like for the legislature to amend this section of the code (16a-2-501) to include loss of employment insurance.

This bill, also would repeal subsection 16a-3-206(2) of the code. This subsection requires an arranger of credit to disclose to the consumer information required by rules and regulations adopted by the administrator pursuant to KSA 16a-6-117.

Prior to the 1981 legislative session, the disclosure requirements of the Federal Truth-in-Lending Act and regulations was included in the UCCC by reference. Because it is unconstitutional for a State law to change automatically when a federal law changes, we were to be enforcing the Federal Truth-in-Lending Act as it was in 1974 when the code was enacted. There were many changes in the federal act between 1974 and 1981. This, in effect, required Kansas creditors to disclose as required in 1974 and in 1981. This was not possible and often resulted in conflict of disclosure requirements. Therefore the incorporation by reference of Federal Truth-in-Lending Act disclosure requirements was repealed.

In it's stead, a new section of the code was enacted, 16a-6-117, that requires the administrator to adopt rules and regulations no less restrictive than the Federal Truth-in-Lending Act to carry out the disclosure requirements of 16a-3-206.

By updating the administrator's regulation 75-6-26, whenever there was a change in the federal act, we have been able to keep the state disclosures requirement the same as the federal requirements.

In 1982, the Federal Truth-in-Lending Act was amended to delete the disclosure requirement of an arranger of credit, we amended our regulation to do the same.

It was only recently that we discovered that this section of the code, 16a-3-206, requires that our regulation include an arranger of credit. The repeal of this subsection will make the federal and state disclosure requirement identical to the federal act.

premium finance transactions will continue to be governed by K.S.A. 40-2610 rather than by the ceilings established for other consumer credit transactions covered by this act.

16a-4-103. (UCCC) Definition: "Consumer credit insurance." In this act "consumer credit insurance" means insurance, other than insurance on property, by which the satisfaction of debt in whole or in part is a benefit provided, but does not include:

(a) Insurance provided in relation to a credit transaction in which a payment is scheduled more than 15 years after the extension of credit;

(b) insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring consumers of the creditor; or

(c) insurance indemnifying the creditor against loss due to the consumer's default.

History: L. 1973, ch. 85, § 63; L. 1982, ch. 95, § 1; July 1.

KANSAS COMMENT, 1973

1. The usual forms of consumer credit insurance provide benefits conditioned on the death or disability of the debtor, the contracts being described as credit life insurance and credit accident and health insurance. The insured event might also be loss of earnings in other ways, as by the loss of employment. A type of insurance not embraced in the term "consumer credit insurance" is that procured by a creditor to guard against the uncollectibility of his accounts. Insurance of this type, although historically and properly called "credit insurance," is conditioned on the nonpayment of debt, and does not serve any interest of debtors of the insured person. This is true also of insurance indemnifying the creditor against loss due to non-filing of instruments. By contrast, the benefit of consumer credit insurance runs to debtors as well as creditors; any payment made to the creditor by the insurer under the policy satisfies the debtor's obligation to the extent of the payment.

2. The definition of "consumer credit insurance" excludes insurance related to long-term credit, following a similar but broader exclusion from the scope of the NAIC model act.

3. Exceptionally, there are occasions when credit life insurance or the like is appropriate but cannot be provided under a general arrangement for insuring debtors of the creditor. On these occasions the debtor may be expected to bargain actively about the insurance feature of the credit transaction. Therefore insurance issued as an isolated transaction is excluded from the definition of consumer credit insurance. It is also excluded from the scope of the NAIC model act.

16a-4-104. (UCCC) Creditor's provision of and charge for insurance; excess amount of charge.

(1) Except as otherwise provided in this article and subject to the provisions on additional charges (section 16a-2-501) and maximum finance charges (parts 2 and 4 of article 2), a creditor may agree to provide insurance, and may contract for and receive a charge for insurance separate from and in addition to other charges. A creditor need not make a separate charge for insurance provided or required by him. This act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

(2) The excess amount of a charge for insurance provided for in agreements in violation of this ar-

ticle is an excess charge for the purposes of the provisions of the article on remedies and penalties (article 5) as to effect of violations on rights of parties (section 16a-5-201) and of the provisions of the article on administration (article 6) as to civil actions by the administrator (section 16a-6-113).

History: L. 1973, ch. 85, § 64; Jan. 1, 1974.

KANSAS COMMENT, 1973

1. Subsection (1) broadly authorizes creditors to contract for and receive payments for providing insurance in the whole range of transactions within the scope of this article. See 16a-4-102. A creditor may provide insurance without making a charge in addition to the finance charge, and in that event is not required to disclose any amount as a charge for insurance. Credit unions frequently do this. If, however, the creditor requires insurance in connection with a consumer credit sale, consumer lease, or consumer loan, the fact that he includes the cost of providing it in a finance charge, giving the insurance "free," will not necessarily exclude him from restrictions under any other law.

Limitations are placed on the making of an additional or separate charge for insurance in 16a-2-501, and the authorization of this section is subject to that provision. In addition, such a charge must be limited as provided in 16a-4-107.

2. This act does not purport to define "separate charge" for insurance. The question has been raised whether there is a separate charge for insurance when a creditor's finance charge varies depending upon whether or not consumer credit insurance is provided. This act does not resolve that question.

16a-4-105. (UCCC) Conditions applying to insurance to be provided by creditor. If a creditor agrees with a consumer to provide insurance

(1) the insurance shall be evidenced by an individual policy or certificate of insurance delivered to the consumer, or sent to him at his address as stated by him, within thirty (30) days after the term of the insurance commences under the agreement between the creditor and consumer; or

(2) the creditor shall promptly notify the consumer of any failure or delay in providing the insurance.

History: L. 1973, ch. 85, § 65; Jan. 1, 1974.

KANSAS COMMENT, 1973

In order to provide needed disclosure to the consumer, this section requires that the creditor deliver to the consumer at an early date the credit insurance policy, or a certificate if a group policy is involved. A copy of the policy would be sufficient if the policy itself were to be kept by the creditor for safekeeping. This tracks with prior Kansas law (former K.S.A. 16-413 (e) and 16-507 (e)).

16a-4-106. (UCCC) Unconscionability. (1) In applying the provisions of this act on unconscionability (sections 16a-5-108 and 16a-6-111) to a separate charge for insurance, consideration shall be given, among other factors, to

(a) potential benefits to the consumer including the satisfaction of his obligations;

(b) the creditor's need for the protection provided by the insurance; and

(c) the relation between the amount and terms of credit granted and the insurance benefits provided.

(2) If consumer credit insurance otherwise complies with this article and other applicable law,

Amendments and Corrections to Regulation Z,
Truth in Lending,
and the Truth in Lending Act
December 1984*

REGULATION Z

1. The April 1, 1982 effective date for mandatory compliance with Regulation Z was delayed to October 1, 1982, pursuant to Public Law 97-110.

2. Effective December 31, 1984, section 226.1(a) is amended by adding a sentence to the end to read as follows:

(a) Authority. * * * Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 USC 3501 et seq. and have been assigned OMB No. 7100-0199.

3. Effective October 1, 1982, section 226.2 is amended by deleting and reserving the text of paragraph (a)(3) and footnote 2 and by deleting paragraph (a)(17)(ii) and redesignating paragraphs (a)(17)(iii), (iv), and (v) as paragraphs (a)(17)(ii), (iii), and (iv), respectively, to read as follows:

(a) Definitions. * * *
(3) [Reserved]

[Footnote 2 reserved]

* * * * *

(17) "Creditor" means: * * *
(ii) For purposes of sections 226.4(c)(8) (Discounts), 226.9(d) (Finance Charge Imposed at Time of Transaction), and 226.12(e) (Prompt Notification of Returns and Crediting

* For this regulation to be complete, effective December 31, 1984, destroy the slip sheet dated May 1983 and retain—

• Regulation Z pamphlet dated April 1, 1981 and
• this slip sheet.

Items 2 and 4 of the regulatory amendments are new. All other items were included in the May 1983 slip sheet.

of Refunds), a person that honors a credit card.

(iii) For purposes of subpart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than four installments.

(iv) For purposes of subpart B (except for the finance charge disclosures contained in sections 226.6(a) and 226.7(d) through (g) and the right of rescission set forth in section 226.15) and subpart C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than four installments.

* * * * *

4. Effective December 31, 1984, section 226.3 is amended by removing footnote 4 to paragraph (a) and adding a new footnote 4 to read as follows:

SECTION 226.3—Exempt Transactions

This regulation does not apply to the following:⁴ * * *

⁴ The provisions in sections 226.12(a) and (b) governing the issuance of credit cards and the liability for their unauthorized use apply to all credit cards, even if the credit cards are issued for use in connection with extensions of credit that otherwise are exempt under this section.

5. Effective October 1, 1982, section 226.3 is amended by adding new paragraph (f) to read as follows:

(f) Student loan programs. Loans made, insured, or guaranteed pursuant to a pro-

use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(ii) Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

(17) "Creditor" means:

(i) A person (A) who regularly extends consumer credit³ that is subject to a finance charge or is payable by written agreement in more than four installments (not including a downpayment), and (B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(ii) An arranger of credit.

(iii) For purposes of sections 226.4(c) (8) (Discounts), 226.9(d) (Finance Charge Imposed at Time of Transaction), and 226.12(e) (Prompt Notification of Returns and Crediting of Refunds), a person that honors a credit card.

(iv) For purposes of subpart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than four installments.

(v) For purposes of subpart B (except for the finance charge disclosures contained in sections 226.6(a) and 226.7(d) through (g) and the right of rescission set forth in section 226.15) and subpart C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than four installments.

(18) "Downpayment" means an amount, including the value of any property used as a trade-in, paid to a seller to reduce the cash price of goods or services purchased in a credit sale transaction. A deferred portion

of a downpayment may be treated as part of the downpayment if it is payable not later than the due date of the second otherwise regularly scheduled payment and is not subject to a finance charge.

(19) "Dwelling" means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

(20) "Open-end credit" means consumer credit extended by a creditor under a plan in which—

(i) The creditor reasonably contemplates repeated transactions;

(ii) The creditor may impose a finance charge from time to time on an outstanding unpaid balance; and

(iii) The amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

(21) "Periodic rate" means a rate of finance charge that is or may be imposed by a creditor on a balance for a day, week, month, or other subdivision of a year.

(22) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

(23) "Prepaid finance charge" means any finance charge paid separately in cash or by check before or at consummation of a transaction, or withheld from the proceeds of the credit at any time.

(24) "Residential mortgage transaction" means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in the consumer's principal dwelling to finance the acquisition or initial construction of that dwelling.

(25) "Security interest" means an interest in property that secures performance of a consumer credit obligation and that is recognized by state or federal law. It does not

³ A person regularly extends consumer credit only if it extended credit more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

75-6-26. Federal truth-in-lending act requirements. A creditor, including a person who in the ordinary course of business regularly extends or arranges for the extension of credit or offers to arrange for the extension of credit, shall disclose to the consumer the information required by title I of the consumer protection act (public law 90-321; 82 stat. 146), as amended, and any regulations issued pursuant to this act as of July 1, 1981. (Authorized by and implementing 1981 Kansas Session Laws, chapter 93, section 1; effective E ; effective May 1, 1982.

APPROVED
Dept. of Admin.
by MDS

APPROVED
ATTORNEY GENERAL
By [Signature] Asst.

75-6-26. Federal Truth-in-lending act requirements.
Any creditor who, in the ordinary course of business,
regularly extends or offers to extend consumer credit
shall disclose to the consumer the information required
by title I of the consumer protection act (public law
90-321; 82 stat. 146), as amended, and any regulations
issued pursuant to this act as of ~~March-157-1985~~ March 25,
1986. (Authorized by and implementing K.S.A. 16a-6-117;
effective, E-82-16, Aug. 12, 1981; amended T-83-2, Jan. 7,
1982; amended T-83-6, April 14, 1982; amended T-84-10,
May 25, 1983; amended, T-85-15, May 3, 1984; amended,
T-86-12, May 1, 1985; amended, T-87-14, June 6, 1986.)

DEPT. OF ADMINISTRATION

MAR 20 1986

APPROVED BY *JAX*

ATTORNEY GENERAL

MAR 28 1986

APPROVED BY *J.S.S.*



Security Benefit Life Insurance Company

A Member of The Security Benefit Group of Companies

Date: February 9, 1987

To: The Honorable Neil Arasmith, Chairman, and
Honorable Members, Senate Committee on Financial
Institutions and Insurance

From: Wayne Morris (LG)

Re: S.B. 99 -- Interest on Death Claims

I am Wayne Morris, Assistant Counsel for Security Benefit Life Insurance Company. Security Benefit Life joins with other members of the Kansas Life Association in support of S.B. 99. The bill would simply clarify that interest is payable after ten days from the receipt of due proof of death under a life insurance policy.

Thank you for the opportunity to go on record in support of the bill. I would be happy to attempt to answer any questions you may have.

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