

Approved 

3/1/88

Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

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

3:30 ~~xx~~ p.m. on February 23, 1988 in room 527-S of the Capitol.

All members were present except: Mary Jane Johnson, Excused

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

Conferees appearing before the committee: Jim Maag, Kansas Bankers Association  
Doug Mays, Securities Commissioner, KS  
Securities Commission

Chairman Graeber brought the meeting to order and announced that final action would be taken on H.B. 2738.

Revisor Bruce Kinzie stated there was one technicality; on Page 7 the word not was left out and should be inserted between shall and exceed in line 0230.

Representative Russell moved and Representative Wilbert seconded that H.B. 2738 be passed out of committee with not being inserted on Page 7, as outlined above. The motion carried.

Representative King offered a motion to amend H.B. 2738; i.e., leave the bill in its present form except add two words in Section 2, K.S.A. 1987 Supp. 9-1102 (3) a bank's total investment or ownership at all times in any one or more of the following shall not exceed 1/2 of its unimpaired capital stock, surplus, undivided profits and capital notes and debentures, and any such excess shall be removed from the bank's books unless approval is granted by the state bank commissioner (See Attachment #1).

Representative Campbell seconded the amendment be accepted and moved out of the committee. The motion carried.

Representative Gatlin moved that the bill be tabled. Representative Shallenburger seconded the motion.

Representative Ott offered a substitute motion to pass the bill out favorably as amended and Representative Long seconded the motion.

The motion was voted on; the vote being 11 yeas and 6 nays. The motion carried.

The Chairman asked for final action on H.B. 2800.

Representative Long stated he was uncomfortable with changes as it is too broad.

Jim Maag, Kansas Bankers Association, offered an amendment to H.B. 2800 which changes Section 1, K.S.A. 1987 Supp. 16a-2-501 (c) adding including annual fees payable in advance or monthly fees, late payment fees, bad check fees, over-limit fees, and cash advance fees, after charges (See Attachment #2).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS  
room 527-S Statehouse, at 3:30 ~~am~~/p.m. on February 23, 1988

After discussion it was moved by Representative Long and seconded by Representative Campbell to amend the bill as presented by Jim Maag. The motion carried.

Representative King moved and Representative Wilbert seconded the bill be passed out of committee as amended.

There was a vote which was 11 Yeas and 6 Nays. The bill was passed out favorably.

Doug Mays, Securities Commissioner, testified for S.B. 548, an act concerning the Kansas securities act; relating to commissioner's authority to censure and fine; amending K.S.A. 1987 Supp. 17-1266a and repealing existing section. (See Attachment #3).

Mr. Mays testified this bill is needed so the Securities Commissioner can cooperate with the Securities Commissioner in other states.

The hearing was closed.

Bruce Kinzie said there is one slight problem in that on Page 2, Line 0049, the words and regulation needs to be added after rule.

Representative King moved and Representative Green seconded that the bill be moved out as amended.

Doug Mays, Securities Commissioner then testified for S.B. 549, an act concerning the Kansas securities act; relating to authority of commissioner; reciprocal enforcement and subpoenas from securities administrators of other states; amending K.S.A. 1987 Supp. 17-1265 and repealing the existing section. (See Attachment #4).

The Chairman asked for the committee's wishes on the two bills presented by the Securities Commissioner.

Representative Gatlin stated he did not want to move the two bills out together.

Representative Hamm moved and Representative Green seconded that S.B. 548 be passed out favorably. The motion carried.

Representative Hamm moved and Representative Green seconded that S.B. 549 be passed out favorably. The motion carried.

The Chairman said the hearing on H.B. 2752 would be Tuesday of next week.

The meeting adjourned at 4:30 P.M.

Date: 2/23/88

GUEST REGISTER

NAME	ORGANIZATION	ADDRESS
LINDA MCGILL	KIBA	TOPEKA
Judy Stungis	CCC	"
Danie Schwarz	10th Fin. Corp	"
Roger W. Walker	Kans. Commissioner of Edu	Topeka
Doug Mays	Sec Commissioner	"
Joe A. Morris	KLSI	TOPEKA
Juni Turner	KLSI	Topeka
Lampheuer	Fourth Finance Corp	Wichita
Janet Stubbins	WBAK	Topeka
J. Mays	KBA	"
H. Spores	"	"
C Spores	"	"

I move to amend HB 2738 by striking all of lines 200 through 274 and inserting in lieu thereof the following:

Sec. 2. K.S.A. 1987 Supp. 9-1102 is hereby amended to read as follows: 9-1102. (a) Any bank may own, purchase, lease, hold, encumber or convey real property and certain personal property subject to the following:

(1) Own suitable building, furniture and fixtures, stock in a single nondepository trust company organized under the laws of the state of Kansas, and stock in a corporation organized under the laws of this state owning real estate occupied by the bank. If the trust company engages in the business of receiving deposits of banks, such stock shall be sold within six months or removed as an asset of the bank. The trust company and the safe deposit company in which a bank owns stock shall be located at all times in the same city or township where the bank owning such stock is located, otherwise the bank shall dispose of such stock immediately;

(2) purchase, hold, encumber and convey real estate or lease, as lessor or lessee, any building or buildings. Any real estate not necessary for the bank's accommodation in the transaction of its business shall be disposed of by the bank not later than seven years after its acquisition unless the state bank commissioner authorizes the bank to retain such real estate for a period not to exceed an additional two years;

(3) a bank's total investment or ownership at all times in any one or more of the following shall not exceed 1/2 of its *unimpaired* capital stock, surplus, *undivided profits* and capital notes and debentures, and any such excess shall be removed from the bank's books unless approval is granted by the state bank commissioner:

(A) The book value of real estate plus all encumbrances thereon;

(B) the book value of furniture and fixtures;

(C) the book value of stock in a safe deposit company;

(D) the book value of stock in a trust company; or

(E) the book value of stock in a corporation organized under the laws of this state owning real estate occupied by the bank and advances to such corporation acquired or made after July 1, 1973. Except that any real estate not necessary for the accommodation of the bank's business shall be disposed of according to paragraph (2).

(b) 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 at any judicial sale a larger amount than is necessary to protect its debts and costs. No real estate, except for agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, acquired in the satisfaction of debts or upon judicial

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sales shall be carried as a book asset of the bank for more than five years. At the termination of the five years such real estate shall be charged off. No agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, acquired in satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank for more than 10 years. At the termination of the 10 years such agricultural land shall be charged off. The commissioner may grant an extension for an additional four 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 or agricultural land as an asset for such extended period.

## HOUSE BILL No. 2800

By Committee on Commercial and Financial Institutions

2-4

0017 AN ACT amending the uniform consumer credit code; concern-  
0018 ing additional charges; amending K.S.A. 1987 Supp. 16a-2-501  
0019 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1987 Supp. 16a-2-501 is hereby amended to  
0022 read as follows: 16a-2-501. (1) In addition to the finance charge  
0023 permitted by the parts of this article on maximum finance  
0024 charges for consumer credit sales and consumer loans (parts 2  
0025 and 4), a creditor may contract for and receive the following  
0026 additional charges in connection with a consumer credit trans-  
0027 action:

0028 (a) Official fees and taxes;

0029 (b) charges for insurance as described in subsection (2);

0030 (c) ~~annual charges, payable in advance,~~ for the privilege of  
0031 using a lender credit card which entitles the user to purchase  
0032 goods or services from at least 100 persons not related to the  
0033 issuer of the lender credit card, under an arrangement pursuant  
0034 to which the debts resulting from the purchases are payable to  
0035 the issuer;

0036 (d) charges for other benefits, including insurance, conferred  
0037 on the consumer, if the benefits are of value to the consumer and  
0038 if the charges are reasonable in relation to the benefits, are of a  
0039 type which is not for credit, and are excluded as permissible  
0040 additional charges from the finance charge by rules and regula-  
0041 tions adopted by the administrator.

0042 (2) An additional charge may be made for insurance written  
0043 in connection with the transaction, including vendor's single  
0044 interest insurance with respect to which the insurer has no right  
0045 of subrogation against the consumer but excluding other insur-

,including annual fees payable in advance  
or monthly fees, late payment fees, bad  
check fees, over-limit fees, and cash  
advance fees,

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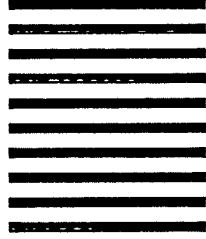
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MOISTEN STRIP ON BACK, SEAL AND MAIL

STATE OF KANSAS



OFFICE OF THE SECURITIES COMMISSIONER

Landon State Office Building  
900 Southwest Jackson St., Suite 552  
Topeka, Ks 66612-1220  
(913) 296-3307

Mike Hayden,  
Governor

M. Douglas Mays  
Securities Commissioner

**Issue: The Power to Fine and Censure**

**I. Issue Definition.**

The broadening of the enforcement remedies available to the Kansas Securities Commissioner through the creation of statutory authority to fine and/or censure violators of the Kansas Securities Act.

**II. Background.**

Each year the office of the Securities Commissioner handles a wide variety of cases ranging from minor infractions due to administrative failures by the industry, to outright attempts to circumvent the Securities Act. This spectrum of violations is, unfortunately, not matched by a similar range of disciplinary remedies. Often, under present statutes, the Securities Commissioner is faced with the choice of either complete revocation or suspension of an agent or company, or simply doing nothing. In a majority of cases, neither of these remedies fits the infraction. This disparity frustrates sensible regulation from both an industry and a regulatory standpoint.

The solution is to adopt legislation providing for a wider spectrum of remedies between the two existing extremes, thus allowing for more equitable treatment of disciplinary cases. This can be accomplished by granting the Securities Commissioner the power to censure licensed agents, broker/dealers, and investment advisers, and to impose fines for any violation of the Kansas Securities Act, or any rule or order under the Act.

In 1985, these sanctions were officially endorsed and made a part of the Uniform Securities Act recommended by the North American Securities Administrators Association (NASAA). Since that time, thirteen states and Puerto Rico have adopted this provision and several other states are in the process. Recently, the Securities Industry Association (SIA), representing over 90% of the securities industry, called for adoption by the states of this legislation.

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### III. Recommendation.

The Securities Commissioner recommends the adoption of legislation granting the power to censure and/or fine up to \$5,000 per violation with no maximum limit. The justification is twofold -- allowing the greatest enforcement flexibility and eliminating the need to amend the statute in the near future due to inflationary reasons.

This legislation is favored by both securities regulators and by the industry being regulated. The SIA, if requested, will send a representative to testify in favor of adoption.

The bill would be in the form of an amendment to K.S.A. 17-1266a of the Kansas Securities Act.

### IV. Fiscal Impact.

Fiscal impact is difficult to gauge. For FY 88, an estimated \$10-25,000 in fines could be levied. In future years, it is conceivable that total fines could reach in excess of \$100,000. These revenues would be added to the General Fund.

### V. Legislative Implications.

There can be a natural reluctance by any legislative body to grant additional administrative authority to a government agency. This, however, is not so much the broadening of powers, but, instead, the creation of disciplinary options between the two existing extremes. Neither is it a precedent, due to the similar existing powers granted to the Insurance Commissioner some years ago (the Insurance Commissioner recently levied a \$50,000 fine against an insurance corporation).

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Securities Commissioner

Mike Hayden,  
Governor

**Issue: Subpoena Powers**

**I. Issue Definition.**

The granting of statutory authority for the Kansas Securities Commissioner to issue subpoenas at the request of other securities agencies.

**II. Background.**

Absent specific legislation, subpoena authority of this state or any other state extends only to its territorial boundaries. Securities violations frequently involve out-of-state contacts and perpetrators and, therefore, the need for the compelling of out-of-state testimony of witnesses and production of documents. Seeking enforcement of a local subpoena in another state usually involves the filing of a separate enforcement proceeding which involves extra legal red tape and results in significant delays.

The passage of this legislation would simply allow the Securities Commissioner to issue subpoenas at the request of securities agencies. This uniform provision has been endorsed by the North American Securities Administrators Association (NASAA), which encourages adoption by all states. In the last two years, seven states have passed the model legislation and several other states are currently undertaking passage.

Reciprocal subpoena powers will greatly enhance the ability of the Kansas Securities Commissioner to prosecute violators of the Securities Act, who through fraudulent activities bilk Kansas residents out of millions of dollars.

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### III. Recommendation.

The Securities Commissioner recommends the adoption of model legislation empowering this office to issue subpoenas at the request of other jurisdictions without specific language requiring reciprocity. It is to our advantage to cooperate with other securities agencies' investigations within our borders.

The bill would be in the form of an amendment to K.S.A. 17-1265 of the Kansas Securities Act.

### IV. Fiscal Impact.

No impact.