

Approved *Clyde D. Graeber* March 22, 1988
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~~ a.m./p.m. on March 15, 1988 in room 527-S of the Capitol.

All members were present except: Representative Kenneth King, Representative Mary Jane Johnson, Representative Jim Russell and Representative Bob Ott, Excused.

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

Conferees appearing before the committee: Michael Heitman, Deputy Bank Commissioner
Noel Estep

The Chairman, Clyde Graeber, brought the meeting to order.

The hearing was opened on Senate Bill 676, an act relating to banks and trust companies; concerning distribution of assets of insolvent banks and trust companies; amending K.S.A. 1987 Supp. 9-1906 and repealing the existing section.

Michael Heitman, Deputy Bank Commissioner, testified for the bill in regard payment for unpaid real property taxes and addresses the priorities of creditors. (See Attachment #1).

After discussion by the committee the hearing was closed.

The hearing was opened on Senate Bill 665, an act relating to banks and banking; concerning authority of banks with respect to the acquisition of stock in bankers' banks and certain bank holding companies; amending K.S.A. 1987 Supp. 9-1101 and repealing the existing section.

Noel R. Estep, Wichita, testified in favor the Senate Bill 665 stating a bankers' bank is a bank organized to provide banking service to other banks; not the general public. It is owned exclusively by banks and is chartered like any other bank (See Attachment #2).

After discussion by the committee, staff stated there is a technicality in that Kansas Statutes do not have a definition of a bankers' bank and therefore there is no authority for the Bank Commissioner to organize a bankers bank and first there must be a Statute.

Representative Long suggested a sub-committee be appointed to look into this and find what needs to be done to accomplish this authority.

The Chairman stated he felt this was a good suggestion and thought a bankers' bank would be good for Kansas and Kansas banks. He then appointed Representative J. C. Long, Ivan Sand and Kenneth Green to the sub-committee to research what needs to be done for Kansas to have a bankers' bank.

The hearing was closed on Senate Bill 665.

Representative Green moved and Representative Wilbert seconded the approval of the minutes.

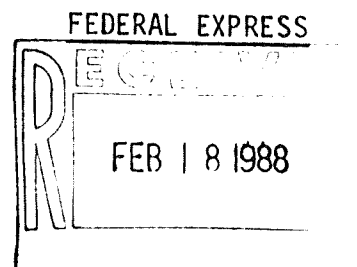
The meeting was adjourned at 4:15 P.M.

FDIC

Federal Deposit Insurance Corporation
2345 Grand Avenue, Kansas City, Missouri 64108 • (816) 234-8000

Kansas City Regional Office
Legal Division (Liquidation/Bankruptcy)

February 17, 1988



Michael D. Heitman
Deputy Commissioner
Kansas Banking Department
700 Jackson
Suite 300
Topeka, Kansas 66603-3714

Dear Mr. Heitman:

RE: Payment of Real and Personal Property Taxes

You have asked for a brief synopsis of the problem facing the Federal Deposit Insurance Corporation (FDIC) when real and personal property taxes owed to the Kansas taxing authorities have not been paid prior to a state bank failure. As noted in our previous conversations, the problem has been addressed from various perspectives but has not been resolved to the point where all parties concerned are comfortable with the remaining ambiguities.

First, I should note that property taxes which accrue from the date a bank fails are clearly "costs and expenses of the receivership" under K.S.A. 9-1906(b). A substantial amount of legal precedent supports this position. Legal precedent also indicates that payment of the tax claims which are secured by a lien is required where the value of the property meets or exceeds the amount of the tax. Thus, the property tax problem faced by FDIC as receiver in Kansas is the situation where a state bank fails prior to the attachment of a lien for failure to pay property taxes legally assessed.

Generally speaking, a lien for unpaid real property taxes attaches on November 1 of the year in which property taxes were assessed. K.S.A. § 79-1804. A judgment lien attaches on October 1 for unpaid personal property taxes provided that the procedures found in K.S.A. §§ 79-2017 and 79-2101 are carried out.

Given that K.S.A. § 9-1910 prohibits attachment of a lien against the property of the estate once the banking commissioner's notice has been posted on the door of the failed bank, any outstanding claim owed at the time the bank fails must be paid according to the priorities set forth in

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K.S.A. 9-1906. Thus, any outstanding tax which has not become a lien would be paid in a receiver's certificate and the authorities would wait in line behind (1) "costs and expenses of the receivership," (2) "claims which are secured or given priority by applicable law," and (3) "claims of secured depositors." K.S.A. § 9-1906(b)

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Carl W. Morgan". The signature is written in dark ink and is positioned above the typed name and title.

Carl W. Morgan
Senior Regional Attorney

cc: E. Glion Curtis
Regional Counsel
Kansas City Regional Office

MARCH 15, 1988

TESTIMONY

SENATE BILL 665

HOUSE COMMERCIAL AND FINANCIAL INSTITUTIONS COMMITTEE

Mr. Chairman & Committee Members:

My name is Noel R. Estep from Wichita, and I am here representing the Bankers' Bank of Kansas Organizing Committee in support of Senate Bill 665. I have been designated by the Organizing committee, subject to supervisory approval, to be President of the Bankers' Bank of Kansas when it begins operation.

A bankers' bank is a bank organized to provide banking service to other banks; not the general public. It is owned exclusively by banks and is chartered like any other bank.

National banking law presently permits a national bank to invest in a bankers' bank chartered either by the Comptroller of the Currency or by the State in which it is located. This law also permits a national bank to invest in a holding company which owns or controls a bankers' bank.

Present Kansas law, however, allows a state chartered bank to invest only in a federally chartered bankers' bank and is silent in regard to investment in a bankers' bank holding company.

Currently, there are 13 bankers' banks in operation in the United States and all but one of them are chartered by the state in which they operate. This includes our neighboring states of Missouri, Oklahoma and Colorado. Nineteen of the twenty-four current members of the Bankers' Bank Organizing Committee

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are state chartered banks.

The Bankers' Bank of Kansas Organizing Committee asked that Senate Bill 665 be introduced in order that state chartered banks in Kansas would have the same investment opportunity as nationally chartered banks. We have visited with Mr. W. Newton Male, State Bank Commissioner, on the changes of Senate Bill 665 and he supports these changes. We have also talked with Mr. Harold Stones of the Kansas Bankers Association and he has indicated his support.

Because of the fact that the majority of the Organizing Committee members are state chartered banks, more familiar with regulation and supervision by the state bank commissioner, the Organizing Committee urges you to pass Senate Bill 665 in order to place state chartered banks in Kansas on a par with nationally chartered banks in regard to investment in a bankers' bank.

I appreciate this opportunity to appear before you and I will be happy to answer any questions you may have.