

Approved February 22, 1988
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 19, 1988 in room 529-S of the Capitol.

All members were present except:

Sen. Gannon - Excused

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Mike Heitman, Kansas Banking Department
Noel Estep, Bankers' Bank of Kansas Organizing Committee

The minutes of February 18 were approved.

The meeting began with the request for the introduction of a bill made by Mike Heitman, Kansas Banking Department. (See Attachment I.) Sen. Harder made a motion for the introduction of the bill and referral back to committee, Sen. Burke seconded, and the motion carried.

The hearing began on SB 665 regarding bankers' banks. Noel Estep, Bankers' Bank of Kansas Organizing Committee, testified in support of the bill. (See Attachment II.) Mr. Estep answered in the affirmative the Chairman's question as to if they have to satisfy capital requirements with the Commissioner's office. Sen. Warren had questions concerning the operations of bankers' banks. Sen. Gordon asked when the start up date is, and Mr. Estep answered that they have no date. Sen. Gordon asked where it is to be located, and Mr. Estep said in Wichita.

Sen. Werts made a motion to report SB 665 favorable for passage, Sen. Kerr seconded, and the motion carried.

Attention was turned to SB 552 amending the UCCC which had been previously heard. The chairman recalled that the bill was requested by the Consumer Credit Commissioner and is making technical changes in the UCCC. Staff had one more clean-up amendment that deletes a statutory reference to a statute that does not exist which was not in the bill but is in another section. Sen. Warren had questions regarding how the origination fee is paid, the rate of interest and how it complies with truth in lending which were answered by Mr. Alderson, attorney for the Consumer Credit Commissioner.

Sen. Karr made a conceptual motion for the clean-up as described by staff, Sen. Warren seconded, and the motion carried.

With reference to Page 18 of the bill, Sen. Karr noted that this is the rule of 78s section which is an issue in another committee. He said he would like to see it taken out. The Chairman said that there are two other bills on this, and since SB 552 is for technical changes only, he would rather not put in policy. He said this can be addressed when the committee discusses SB 507. Sen. Warren asked for an explanation of the rule of 78s, and the Chairman did so. Sen. Karr reiterated that he would like to see the rule of 78s addressed. The Chairman assured him that this issue will be discussed in this committee within the next ten days to two weeks.

Sen. Werts made a motion to recommend SB 552 favorable for passage as amended, Sen. Reilly seconded, and the motion carried.

Next to be considered was SB 539 concerning eligibility for coverage under group

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 19, 1988.

sickness and accident insurance which had been previously heard. The Chairman recalled that there had been suggested amendments. Staff had prepared a balloon of the bill with the amendments. (See Attachment III.) The Chairman asked if it deals with the size of the group involved. Staff explained that the way the bill is written now, size no longer plays a part in it. The amendment eliminates it because it has limited it to a single employer situation, and the number of employees does not matter. Larry Magill, Kansas Independent Insurance Agents, noted that it takes care of Mr. Banaka's (Farm Bureau) and his group. It deals with single employers and does not severely hamper multi-employers' trusts and association plans and so it also is acceptable to his organization. The provisions apply to everybody, and, therefore, are acceptable. Ron Todd of the Insurance Department said the Department is satisfied with the amendment.

Sen. Karr made a motion to so amend SB 539, Sen. Reilly seconded, and the motion carried.

Sen. Werts made a motion to recommend SB 539 favorable for passage as amended, Sen. Gordon seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

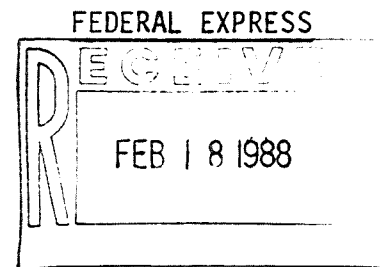
ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2-19-88	Don J. Estep	1425 Stratford - Wichita	
"	Wald. Estep	"	Bankers' Bank/Ks.
"	Bob Anderson	TOPEKA	CONSUMER CREDIT COOP.
"	Judy Stinger	"	" " "
"	Jeff O'Brien	"	PIA of K
"	Ron Todd	"	Ins. Dept.
"	Pete M. Sice	"	KIBA
"	Bill Pitzemberger	"	Blue Cross/Blue Shield of Kansas
"	Chuck Stones	"	Ks Bankers Assn
"	Tommy Humphrey	"	KMHA
"	Joe A. Morris	"	KCSI
"	Jim Maag	"	KBA

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

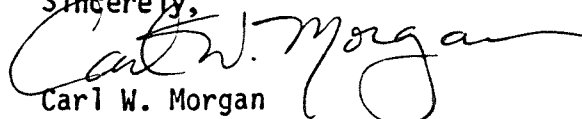
Attachment I

Michael D. Heitman
February 17, 1988
Page 2

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,



Carl W. Morgan
Senior Regional Attorney

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

SENATE BILL NO. _____

By Committee on Financial Institutions and Insurance

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.

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

Section 1. K.S.A. 1987 Supp. 9-1906 is hereby amended to read as follows: 9-1906. (a) The receiver, under the direction of the commissioner, shall take charge of any insolvent bank or trust company and all of its assets and property, and liquidate the affairs and business thereof for the benefit of its depositors, creditors and stockholders. The receiver may sell or compound all bad and doubtful debts and sell all the property of the bank or trust company upon such terms as the district court of the county where the bank or trust company is located shall approve. The receiver shall pay over all moneys received to the creditors and depositors of such bank or trust company as ordered by the commissioner.

(b) In distributing assets of an insolvent bank or trust company in payment of its liabilities, the order of payment, in the event its assets are insufficient to pay in full all of its liabilities, shall be by category as follows:

- (1) The costs and expenses of the receivership;
- (2) claims which are secured or given priority by applicable law, and real and personal property taxes properly assessed against the bank pursuant to applicable law;
- (3) claims of unsecured depositors;
- (4) all other claims exclusive of claims on capital notes and debentures;
- (5) claims on capital notes and debentures.

Should the assets be insufficient for the payment in full of all claims within a category, such claims shall be paid in the order provided by other applicable law or, in the absence of such applicable law, pro rata.

Sec. 2. K.S.A. 1987 Supp. 9-1906 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

FEBRUARY 19, 1988

TESTIMONY

SENATE BILL 665

SENATE FINANCIAL INSTITUTIONS AND INSURANCE 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.

Present state law requires that a bankers' bank in Kansas have a federal charter. 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 are state chartered banks. Because of the preponderance of state chartered bankers' banks and the fact that the majority of the Organizing Committee members are state banks, more familiar with regulation and supervision by the state bank commissioner, the committee supports the flexibility of a state or federal charter for a bankers' bank in Kansas.

Senate Bill 665 will also authorize state banks to invest in a holding company which owns a bankers' bank. National banking

Attachment II

February 19, 1988

Page 2

laws already permit national banks to make such an investment and it is the feeling of the Organizing Committee that this opportunity should be granted to state banks by state law rather than through action of the bank commissioner.

I have visited with Mr. W. Newton Male, State Bank Commissioner, on the changes of Senate Bill 665 and he supports these changes. I have also visited with Mr. Harold Stones, Executive Vice President of the Kansas Bankers Association, and he has indicated his support.

I urge you to recommend Senate Bill 665 for passage. I appreciate this opportunity to appear before you and I will be happy to answer any questions you may have.

SENATE BILL No. 539

By Committee on Financial Institutions and Insurance

1-28

0016 AN ACT relating to insurance; concerning eligibility for cover-
0017 age under group sickness and accident insurance; amending
0018 K.S.A. 1987 Supp. 40-2209 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 1987 Supp. 40-2209 is hereby amended to
0021 read as follows: 40-2209. (A) Group sickness and accident insur-
0022 ance is declared to be that form of sickness and accident insur-
0023 ance covering groups of persons, with or without one or more
0024 members of their families or one or more dependents, or one or
0025 more members of their families or one or more dependents; ~~and~~
0026 ~~except at the option of the employee or member and except~~
0027 ~~employees or members enrolling in a group policy after the close~~
0028 ~~of an open enrollment opportunity, no individual employee or~~
0029 ~~member of an insured group consisting of 25 or more persons~~
0030 ~~and no individual dependent or family member may be excluded~~
0031 ~~from eligibility or coverage under a policy issued to such group~~
0032 upon the following basis:

0033 (1) Under a policy issued to an employer or trustees of a fund
0034 established by an employer, who is the policyholder, insuring at
0035 least five employees of such employer, for the benefit of persons
0036 other than the employer. The term "employees" shall include
0037 the officers, managers, employees and retired employees of the
0038 employer, the partners, if the employer is a partnership, the
0039 proprietor, if the employer is an individual proprietorship, the
0040 officers, managers and employees and retired employees of
0041 subsidiary or affiliated corporations of a corporation employer,
0042 and the individual proprietors, partners, employees and retired
0043 employees of individuals and firms, the business of which and of
0044 the insured group

, and

Attachment III

0045 ownership contract, or otherwise. The policy may provide that
0046 the term "employees" may include the trustees or their employ-
0047 ees, or both, if their duties are principally connected with such
0048 trusteeship. A policy issued to insure the employees of a public
0049 body may provide that the term "employees" shall include
0050 elected or appointed officials.

0051 (2) Under a policy issued to a labor union which shall have a
0052 constitution and bylaws insuring at least 25 members of such
0053 union.

0054 (3) Under a policy issued to the trustees of a fund established
0055 by two or more employers or business associations or by one or
0056 more labor unions or by one or more employers and one or more
0057 labor unions, which trustees shall be the policyholder, to insure
0058 employees of the employers or members of the union or mem-
0059 bers of the association for the benefit of persons other than the
0060 employers or the unions or the associations. The term "employ-
0061 ees" shall include the officers, managers, employees and retired
0062 employees of the employer and the individual proprietor or
0063 partners if the employer is an individual proprietor or partner-
0064 ship. The policy may provide that the term "employees" shall
0065 include the trustees or their employees, or both, if their duties
0066 are principally connected with such trusteeship.

0067 (4) A policy issued to a creditor, who shall be deemed the
0068 policyholder, to insure debtors of the creditor, subject to the
0069 following requirements: (a) The debtors eligible for insurance
0070 under the policy shall be all of the debtors of the creditor whose
0071 indebtedness is repayable in installments, or all of any class or
0072 classes determined by conditions pertaining to the indebtedness
0073 or to the purchase giving rise to the indebtedness. (b) The
0074 premium for the policy shall be paid by the policyholder, either
0075 from the creditor's funds or from charges collected from the
0076 insured debtors, or from both.

0077 (5) A policy issued to an association which has been orga-
0078 nized and is maintained for the purposes other than that of
0079 obtaining insurance, insuring at least 25 members, employees, or
0080 employees of members of the association for the benefit of
0081 persons other than the association or its officers. The term

No policy providing benefits for hospital, medical or surgical expense which replaces a policy issued under this section shall contain any provision which prevents any person insured under the replaced policy immediately prior to such replacement from being insured under the replacing policy. Except at the option of the employee, and except employees enrolling in a group policy after the close of an open enrollment opportunity, no individual employee and no individual dependent or family member may be excluded from eligibility or coverage under a policy providing benefits for hospital, medical or surgical expense issued under this section. Notwithstanding the foregoing sentence, a waiting period, not to exceed one year, may be imposed upon coverage for conditions of health which existed prior to the date of enrollment of such employee, dependent or family member, hospitalization in progress on the date of enrollment need not be covered, and the plan may impose participation requirements, define full-time employees and otherwise design the coverage for the group as a whole to be negotiated between the employer and insurer.