

MINUTES OF THE HOUSE COMMITTEE ON Commercial & Financial Institutions

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

3:30 ~~am~~/p.m. on March 23, 1989 in room 527-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Jeffrey Sonnich, Kansas League of Savings
Institutions

Representative Green moved and Representative Eckert seconded the minutes of the March 21 meeting be approved. The motion carried.

The Chairman opened the hearing on Senate Bill 47, an Act relating to liability of officers and directors of certain financial institutions.

Jeffrey Sonnich, Administrative Assistant, Kansas League of Savings Institutions, testified in support of Senate Bill 47, stating this bill would allow officers and directors of state chartered institutions the ability to use as a legal defense the good faith reliance upon the books and records (including CPA Reports and bonafide appraisals) when declaring a dividend or crediting interest to depositor's accounts. Currently, because of the antiquated nature of the Savings and Loan Code, the courts have held that this is not an allowable defense.

Mr. Sonnich further stated this bill attempts only to put State-chartered Savings and Loans on the same level, in terms of legal defense, with Federally-chartered Savings and Loans, Commercial Banks, and Corporations. (See Attachment #1).

After discussion it was decided that Amendment #1 proposed by Mr. Sonnich that removes "-- or negligently --." should remain.

The second amendment requested would change, "felony and upon conviction thereof shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years" to "class C misdemeanor and upon conviction thereof subject to confinement as provided by K.S.A. 21-4502 and fine as provided by K.S.A. 21-4503 and all amendments thereto."

The Committee discussed this amendment would be changing the penalty to a lesser degree.

Representative Francisco moved and Representative King seconded to remove the portion regarding K.S.A. 17-17-5812. The motion carried.

Representative King stated he was not in favor of messing around with Savings and Loans as they are in trouble now.

The proposal is aimed to bring state chartered institutions in line with federally chartered institutions.

Representative Justice stated he did not agree with most of this.

Mr. Gerald L. Goodell, Attorney, Kansas League of Savings Institutions, stated that K.S.A. 17-5812 broadens the powers; officers and directors would be punished, but are trying to protect the ones acting in good faith.

Representative Schauf moved and Representative Eckert seconded to put back in the conceptual class E or D felony (to be written by Legislative Revisor) to increase the penalty. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Commercial & Financial Institutions,
room 527-S Statehouse, at 3:30 ~~am~~/p.m. on March 23, 1989, 19

After further discussion, Representative Justice moved and Representative Francisco seconded that S.B. 47 be tabled.

The Chairman asked for a vote and the Yeas carried. Senate Bill #47 was tabled.

The Chairman stated the Committee had just received Senate Bill #326 and a hearing is scheduled for next Tuesday, March 28.

The Chairman then asked if the Committee wanted to discuss anything further.

Senate Bill #331 was heard on Tuesday, March 21 and the Chairman stated it was felt most of the questions had now been answered and it is believed that this is a good consumer bill.

Representative King moved and Representative Schauf seconded that S.B. #331 be brought off the table and moved out favorably in its original form.

After discussion the Chairman asked for a vote by a show of hands...there were 6 yeas and 7 nays. The motion failed.

Senate Bill #331 was tabled.

The meeting adjourned at 4:30 P.M. and the Chairman announced there would be a meeting on Tuesday, March 28.

KLSI Kansas
League of
Savings
Institutions

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March 23, 1989

TO: HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS
FROM: JEFFREY SONNICH, KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: S.B. 47, DIRECTOR LIABILITY - STATE CHARTERED INSTITUTIONS

The Kansas League of Savings Institutions appreciates the opportunity to appear before the committee for continued discussion on S.B. 47 pertaining to liability of officers and directors of a state-chartered savings institutions.

This bill would allow officers and directors of state-chartered savings institutions the ability to use as a legal defense the good faith reliance upon the books and records (including CPA Reports and bonafide appraisals) when declaring a dividend or crediting interest to depositor's accounts. Currently because of the antiquated nature of the Savings and Loan Code the courts have held that this is not an allowable defense.

Also, because of concerns expressed with the deletion of the penalty provision in Sec.1 lines 41 through 45, we are proposing the attached amendments. These amendments would provide for the misdemeanor penalty, upon conviction, for an officer or director who willfully declares a dividend or credits interest when the capital of the institution is impaired.

This bill attempts only to put State-chartered Savings and Loans on the same level, in terms of legal defense, with Federally Chartered Savings and Loans, Commercial Banks, and Corporations.

Jeffrey Sonnich
Administrative Assistant

Atch #1

PROPOSED AMENDMENTS TO SENATE BILL 47,
AS AMENDED

1. Amend line 29 as follows:

~~"-- or negligently --."~~

2. Amend lines 41, 42, 43, 44, and 45 to read as follows:

~~"and any director of such association who consents to the payment of any dividend when the capital is impaired shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years. class C misdemeanor and upon conviction thereof subject to confinement as provided by K.S.A. 21-4502 and fine as provided by K.S.A. 21-4503 and all amendments thereto."~~