

Approved  13-90  
Date

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions.

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

3:30 ~~a.m.~~/p.m. on February 27, 1990 in room 527-S of the Capitol.

All members were present except: Representatives Long and Schauf, Excused.

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

Conferees appearing before the committee: Grant Brooks, Kansas Banking Department

The Vice Chairman opened the meeting and stated final action would be taken on HB 2988 and 2990.

Representative King moved and Representative Roper seconded that HB 2988 be moved out of committee favorably. The motion carried.

Representative King moved and Representative Green seconded that HB 2990 be moved out of committee favorably. The motion carried.

The hearings were opened on HB 2992. Grant Brooks, Kansas Banking Department stated that last year the bill was amended. (See Attachment #1). This bill is basically corrective. The language that was part of subsection (A) was inadvertently left out of subsections 3 and 5. With this additional language, it would provide an exemption for limited partners being included in the legal lending calculations for limited partners and vice versa. One other change the bill makes is with the applicability of subsection (b). This subsection discusses the lending limits to bank employees. The Banking Department would like to see the exemptions that apply to other loans also apply to loans to bank officers and employees. This can be done easily by making subsection (b) another numbered subsection of subsection (a).

Representative Shallenburger moved and Representative Roper seconded to move 9 back to b and leave as current and reletter paragraphs accordingly.

There was discussion. Representative King stated he would vote against Representative Shallenburger's motion.

Representative Eckert asked, would 9 reflect back to 2?

Grant Brooks stated, there is new intention. All other exceptions allowed for everyone else will be allowed for officers, directors and employees. If a farmer's wife goes to work in the bank then the loan is not legal where it had been earlier. The intention is to correct this part of the bill.

It was discussed that changing b to 9 does not accomplish what was intended. This is not clear and does not say what was intended.

It was stated that the Commissioner thinks this is important and the KBA thinks this is important.

The Chairman appointed a subcommittee to look at this bill and report back to the committee on Thursday. The subcommittee will be: Kenneth King, Chairman and Jim Cates and Lee Hamm.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions,  
room 527-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 27, 19    .

Representative Shallenburger removed his motion and Representative Hamm removed his second to HB 2992.

Representative Francisco asked that staff be present at the subcommittee meeting so correct and complete information could be furnished at the meeting on Thursday.

The Chairman opened the hearing on HB 2994 which is a bill that amends K.S.A. 9-5111 which concerns the licensing requirements for the transmission of money. This is a safety measure for Kansans as some people use this system to pay their bills and use as a savings account. If it were to go bankrupt these people would lose their money.

The hearing was closed on HB 2994

It was asked by a member if HB 2993 that was tabled earlier would be brought back to the table for consideration.

This bill amends K.S.A. 9-1712 which governs the confidentiality of information procured by the State Bank Commissioner.

The present statute does not adequately describe what confidential information is, who owns it and when it can be released. Also, the present statute, prohibits the Commissioner from disclosing information but does not prevent the state bank from disclosing reports of examination. The statute mandates information is confidential, but provides no penalty for those who violate its provision.

After discussion Representative King moved and Representative Teagarden seconded that HB 2993 be brought off the table. The motion carried.

Representative Wilbert moved and Representative Watson seconded to move HB 2993 out of committee. The motion carried.

Representative Green moved and Representative Shallenburger seconded that the minutes of the February 20th meeting be approved. The motion carried.

The Chairman announced he would let the committee know during the House Session if there would be a meeting on Wednesday to hear HB 3052 and 3053.

Representative Shallenburger asked if HB 2994 that was heard earlier today was going to have any action taken on it.?

Representative Shallenburger moved and Representative Green seconded that HB 2994 be moved out of committee favorably. The motion carried unanimously.

The meeting adjourned at 5:00 P.M.



Testimony

Before

The House Committee on Commercial  
and Financial Institutions

by Conferee:

Grant L.C. Brooks, General Counsel

Kansas Banking Department

Chairman Graeber and Committee members, my name is Grant Brooks, General Counsel for the Kansas Banking Department.

I would like to continue my testimony where I stopped last Tuesday afternoon. This Committee was discussing **House Bill 2990**. Please disregard my proposed amendments to **House Bill 2990**. The Banking Department would prefer the Committee look at this bill as it stands before the Committee and the changes are unwarranted.

Once again, this bill amends K.S.A. 9-1112 which concerns unlawful transactions. I want to stress that this is only language clarification and cleanup. Our intent behind this bill is to modernize the language and to make the statute easier to read. One minor change was made and that was to include the department's policy of allowing the banks time to hold a commercial reasonable sale when they are required to dispose of property that was acquired in the collection of debts. This bill gives the Bank Commissioner no more power than he presently has. In fact, it restricts the Bank Commissioner's authority by mandating a finding of a commercially reasonable sale can occur, before the Commissioner can require a bank charge off the asset acquired in the collection of debt.

Does the Committee have any questions for me regarding this bill?

**House Bill 2992**

The next bill on the agenda is **House Bill 2992**. It amends K.S.A. 9-1104. This statute concerns legal lending limits. This bill is basically corrective. Last year this statute was amended to exempt limited partners from the lending limit calculations for limited partners. Unfortunately, the language that was part of subsection (a) was inadvertently left out of subsections 3 and 5. With this additional language, it would provide an exemption for limited partners being included in the legal lending calculations for limited partners and vice versa. One other change the bill

Atch #1

makes is with the applicability of subsection (b). This subsection discusses the lending limits to bank employees. The Banking Department would like to see the exemptions that apply to other loans also apply to loans to bank officers and employees. This can be done very easily by making subsection (b) another numbered subsection of subsection (a).

One major purpose for this change was the number of concerns we have had from rural banks. A problem has occurred with farm families with farm notes that were signed by both spouses. For example, if one spouse became employed with the bank that had the farm note, then all of the sudden K.S.A. 9-1104, would prevent the family from borrowing more than the 5 percent limit because one of the family members who signed the farm note, is now a bank employee. This problem occurs frequently enough to create a concern that a statutory amendment was deemed appropriate. Does the Committee have any questions regarding **House Bill 2992?**

Finally the last bill for the Committee to consider is **House Bill 2994**. This bill amends K.S.A. 9-511 which concerns the license requirements for the transmission of money. The Transmission of Money Act regulates individuals that engage in the sale of money orders or wire transfers of money. The act requires that before starting a money order business they must apply to the Bank Commissioner and file a surety bond of a minimum of \$50,000 and having net worth of \$100,000. K.S.A. 9-511 exempts certain institutions from the licensing requirements. This statute exempts financial institutions and telegraph companies that wire money from one location to another. There is only one telegraph company, Western Union, that is operating under this exemption. Western Union has approximately 196 agents in Kansas engaged in telegraphing money. Once again, this company is exempt from filing a surety bond to cover any losses.

Western Union is basically insolvent.

I would like to direct the Committee's attention to my previous testimony and handout of the Wall Street Journal article of October 13, 1989. Western Union had an operating loss of \$15-\$20 million dollars last year. Western Union loss approximately \$3 billion dollars a year through its money transfer network. If Western Union declares bankruptcy, there could be a number of Kansas citizens who would lose money in transit because of the exemption contained in K.S.A. 9-511.

Therefore, this bill will delete the telegraph company from the exemption provisions and will require all telegraph companies, before they engage in wire services in Kansas, to post a surety bond as security and to have a net worth of \$100,000. Does the Committee have any questions for me regarding this bill?

Mr. Chairman, I hope it is appropriate at this time to urge the Committee to reconsider **House Bill 2993**: the confidentiality statute. This bill is important and is needed to clarify the procedure state banks can use to determine whether or not information is confidential. The department's interest in this bill was not to increase the department's power and authority nor was it to create some hypothetical shield from liability. For the Committee's information, shields of liability have always been there; through the 11th Amendment to the Constitution and the Kansas Tort Claims Act. I urge the Committee to reconsider **House Bill 2993** as it benefits Kansas depositors, the state banks, and the Bank Commissioner. It is a very fair bill.

**THANK YOU FOR YOUR TIME AND CONSIDERATION.**

Testimony

Before

The House Committee on Commercial  
and Financial Institutions

by Conferee:

Grant L.C. Brooks, General Counsel

Kansas Banking Department

**House Bill 2988**

This bill amends K.S.A. 9-1102 which concerns bank ownership of real estate and certain corporate stock.

K.S.A. 9-1102 prohibits a bank from owning stock in a trust company outside the city where the bank is located.

Prior to the change in the trust company statutes, the restrictions were to prohibit a state bank from expanding its deposit taking ability through owning deposit taking trust companies state wide. Thus, indirect statewide branching for state banks.

However, since trust companies can no longer take deposits the restriction has lost its purpose and now stands as an impediment against expansion. It makes no sense to now geographically limit a bank's ownership in a trust company.

This bill deletes the geographical limitations on a bank owning stock in a trust company.

Additionally, this bill expands and clarifies when a bank can own stock in a corporation organized to hold real estate. K.S.A. 9-1102 required the real estate corporation to own the land occupied by the bank before the bank could own any stock in the real estate corporation.

The amendments expand the authority by allowing a bank to own stock in the corporation which owns real estate that shall be occupied by the bank. The proposed language is less restrictive because it clarifies that the bank need not occupy all of the land the real estate corporation owns.

**House Bill 2989**

This bill amends K.S.A. 9-910 which provides limitations on when a bank may declare dividends. The statute requires a bank to recognize depreciation for the purpose of calculating undivided profits from which dividends are taken.

This language never anticipated bond depreciation in a bank's investment portfolio. Although the bonds will be held to their maturity, if valued at market rate, substantial depreciation could exist in the bond portfolio and prohibit a bank from declaring dividends because the recognized depreciation would consume all of the undivided profits.

The amendment deletes that language and substitutes language that requires the bank to declare dividends in accordance with Generally Accepted Accounting Principles.

**House Bill 2990**

This bill amends K.S.A. 9-1112 which concerns unlawful transactions. The amendments are basically language clarification and cleanup. The same authority and restrictions exist. The language is modernized to allow for a simpler reading.

One change was made. The condition of a commercially reasonable sale was added to the requirement that a bank must dispose of property which was acquired in the collection of debts.

If such a sale is not possible, then the Commissioner, as presently empowered, can authorize the bank to carry such property as a book asset for a longer period.



**House Bill 2991**

This bill amends K.S.A. 9-1801 which concerns the organization of banks and the issuance of emergency charters.

Subsection (b) of this statute allows the State Bank Commissioner, in emergency situations, to approve new bank charters upon the dissolution or insolvency of any bank or trust company.

There now is a need to broaden the authority of the Commissioner to allow investors/successful bidders on savings associations, receivership, to apply for an emergency bank charter.

Under the Financial Institution Reform, Recovery and Enforcement Act of 1989, (FIRREA), state banks can bid on savings associations and operate them as branches. However, a holding company cannot create an additional new state bank because the Commissioner does not have the power to issue an emergency charter upon the insolvency of a savings association. Conversely, the Office of the Comptroller of the Currency (OCC) does have the power to issue emergency national bank charters for a successor to any financial institution.

The amendments would add language to allow the State Bank Commissioner to issue emergency state bank charters on an equal basis as the national bank regulatory (OCC) can offer national bank charters.

**House Bill 2992**

This bill amends K.S.A. 9-1104 which concerns lending limits.

This bill is basically corrective.

Last year this statute was amended to exclude limited partners from the lending limit calculations for limited partnerships. However, the language used to exclude limited partners was inadvertently left out of the subsections 3 and 5.

Additionally, the bill amends the applicability of subsection (b): the lending limit to bank officers and employees. It provides that the exemptions that apply to other loans also apply to loans to bank officers and employees. For example, this would allow a bank officer to exceed the 5 percent limitation on loans secured by a C.D. and loans guaranteed by federal agencies and all the other exemptions contained in subsection (a) of 9-1104.

**House Bill 2993**

This bill amends K.S.A. 9-1712 which governs the confidentiality of information procured by the State Bank Commissioner.

The present statute does not adequately describe what confidential information is, who owns it and when can it be released. Also, the present statute, prohibits the Commissioner from disclosing information but does not prevent the state bank from disclosing reports of examination. The statute mandates information is confidential, but provides no penalty for those who violate its provisions.

The amendments correct all these deficiencies. The new language provides that all confidential information is the property of the state of Kansas and cannot be subject to disclosure, except upon the Commissioner's approval. The amendments also define information to be all inclusive. The proposed language makes it a class C misdemeanor for those who violate this statute.

**House Bill 2994**

This bill amends K.S.A. 9-511 which concerns the licensing requirements for the transmission of money.

The Transmission of Money Act (K.S.A. 9-508 to 513) regulates all entities that engage in the business of transmitting money: usually by money order or wire service.

The act requires before any person starts a money order business, they must have a net worth of at least \$100,000 and file a surety bond of a minimum of \$50,000 with the Bank Commissioner.

The logic being if a money order company goes bankrupt, at least the Commissioner will have a surety bond to cover a majority, if not all, of the money orders issued in Kansas.

It is amazing to realize that 25 percent of all United States' households do not have checking accounts. Instead, a majority of them rely on money order companies to pay bills and for their savings. Unfortunately, the majority of money order users are low income households; the one who can least afford to lose money if the money order company becomes insolvent, and all the outstanding orders become worthless.

K.S.A. 9-511 exempts certain institutions from the surety bond and net worth requirements. This statute exempts financial institutions: banks, savings associations and credit unions, and also telegraph companies that wire money from one agent to another, for you to pick up.

There is only one telegraph company, Western Union, that is operating under this exemption. Western Union has approximately, 196 agents in Kansas engaged in "telegraphing money."

Western Union is basically insolvent. (See, The Wall Street Journal, October 13, 1989). They had an operating loss of \$15 to \$20 million dollars last year. Western Union moves approximately \$3 billion dollars a year through its money transfer network. It takes about 15 minutes to 2 hours for a wire transfer.

If Western Union went bankrupt, there would be Kansas citizens that would have money in transit that would be lost because there is no bond posted to cover the money transfers.

Therefore, this bill deletes the telegraph exemption from the licensing requirements and will require all telegraph companies to post a bond as security for the wire transfers.

#### House Bill 2995

This bill amends K.S.A. 9-1602 which allows the State Bank Commissioner discretion in granting trust authority to a bank. This statute has no provision for the revocation of trust authority.

The amendments give the State Bank Commissioner the authority to revoke a bank's permit to operate a trust department only upon finding the bank is failing to adhere to sound fiduciary practices. The proposed language provides any bank, subject to revocation, the right to a hearing pursuant to the Kansas Administrative Procedures Act.