

Approved

Date

*Sybil Schaefer* 3/29/90

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 ~~XX~~ p.m. on March 13, 19<sup>90</sup> in room 527-S of the Capitol.

All members were present except: Representatives Aldie Ensminger, Kenneth King, Tim Shallenburger and George Teagarden, Excused.

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

Conferees appearing before the committee:

The Chairman called the meeting to order and opened the hearing on HB 3052, an act concerning the uniform commercial code, relating to funds transfers. This bill affects banks and large institutions. It is important that the UCC be adopted by the State of Kansas so financial institutions in Kansas come under the same regulations as other states and brings Kansas into conformity with other states that may adopt its provisions. One state has already adopted the UCC as it effects funds transfers and it is being considered in 9 other states including Kansas. Wire transfers of funds are occurring more and more today. The law of the receiving states prevail. One state that is looking at it now is New York which is very important as most money transfers are done between other states and New York. This is the first year this has been placed before the states. It could be passed by the 7 other states this year that are considering it. This law would spell out who is liable if there is an error and what rules will govern. Ultimately, every bank would come under the same rules, how they settle, how long, etc. when this provision of the UCC is adopted by all states.

Representative Long suggested that HB 3052 be placed on the Consent Calendar.

After discussion, Representative Long moved and Representative Green seconded that HB 3052 be placed on the Consent Calendar. The motion carried.

The Chairman asked the Committee what their wishes were on HB 2992.

The Revisor reviewed the changes that the sub-committee recommended, changing section in lines 10 and 21 to subsection and striking (7). (See Attachment #1).

Representative Schauf moved and Representative Roper seconded to Table HB 2992 until such time as the Banking Department comes back with changed and more effective wording. The motion carried unanimously.

The Chairman stated that HB 2993 was passed out of Committee and got all the way to the Clerk's office before it was realized that our minutes did not reflect the bill had been amended in Committee. This is on the Agenda but will not be taken up today as Representative Shallenburger asked about the bill and its amended report and he is not present today.

The Chairman stated he would schedule hearings on Interstate Banking Bill for proponents on March 20, opponents on March 21 and possible final action on March 22, 1990.

It was moved by Representative Eckert and seconded by Representative Green that the minutes of the February 27 and 28 meetings be approved. The motion carried.

The meeting adjourned at 4:30 P.M.



Attach #1

1 (5) the total liability in the form of notes or drafts to any bank of  
 2 any person, copartnership, association or corporation, including in  
 3 the liability of a copartnership or association the greatest of the  
 4 individual liabilities of the respective members thereof *other than*  
 5 *limited partners who, under the limited partnership agreement, are*  
 6 *not liable for the debts or actions of the limited partnership, and,*  
 7 *except as provided herein for the liability of a limited partner, and*  
 8 including in the liability of a member of a copartnership or association  
 9 the liability of the copartnership or association, may exceed limita-  
 10 tions otherwise imposed by this ~~section~~ by 10% of the amount of  
 11 the capital stock paid in and unimpaired and the unimpaired surplus  
 12 fund of such bank provided that such total liability is secured as to  
 13 payment by first lien or liens upon real estate in fee simple, to the  
 14 extent of the value thereof, having an appraised value of not less  
 15 than twice the amount by which such total liability exceeds limita-  
 16 tions otherwise imposed by this section, and where such excess  
 17 liability is secured by lien instrument under the terms of which any  
 18 installment payments are sufficient to amortize the entire principal  
 19 amount of such excess liability within a period of not more than 20  
 20 years;

subsection

21 (6) the limitations of this ~~section~~ shall not apply to time deposits  
 22 which are considered to be loans to the extent such time deposits  
 23 are insured by: (A) The federal deposit insurance corporation or its  
 24 successors; or (B) the federal savings and loan insurance corporation  
 25 or its successors;

subsection

26 (7) ~~the legality of a loan hereunder shall be determined as of~~  
 27 ~~the date the loan is made.~~

28 (8) the whole or that portion of any loan which is secured as to  
 29 payment by a time deposit of the borrower in the bank in an amount  
 30 equal to 115% of the amount of the indebtedness shall be exempt  
 31 from any limitation under this subsection (a).

32 (b) ~~(c)~~ the liability of any active officer or employee of any  
 33 bank shall not exceed 5% of the amount of its paid-in and unimpaired  
 34 capital stock and unimpaired surplus fund. Any loan made to any  
 35 officer first must be approved by the board of directors and entered  
 36 upon their minutes where the total liability of the officer to the  
 37 bank, including the loan made, will exceed \$10,000.

(b) The

The limitations on liability of any active officer or employee under this subsection, shall be subject to the provisions of paragraphs 1 through 7 of subsection (a).  
 (c) The legality of a loan under the provisions of subsection (a) or (b), shall be determined as of the date the loan is made.

*initial bank is committed to*

38 (e) ~~(d)~~ For purposes of this section, the term "unimpaired surplus  
 39 fund" includes all capital accounts (other than capital stock) derived  
 40 from either paid-in capital funds or retained earnings, not subject  
 41 to known charges, and which are considered interchangeable by  
 42 resolution of the bank's board of directors. The state bank commis-  
 43 sioner, with approval of the state banking board, may further define

d *make the loan*

1-2

1 the term "unimpaired surplus fund" by regulation, and the provisions  
2 of article 4 of chapter 77, of the Kansas Statutes Annotated shall not  
3 be applicable to such regulation or regulations.

4 ~~(d)~~ (e) The commissioner may order any excess loan reduced to  
5 the legal limit, and after 60 days from the receipt of the commis-  
6 sioner's order no bank shall carry the excess of such loan and a  
7 failure to comply with any order made hereunder shall be grounds  
8 for the hearing provided in K.S.A. 9-1805, and amendments thereto.

(e)

9 Sec. 2. K.S.A. 1989 Supp. 9-1104 is hereby repealed.

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