

Approved

Date

2/22/90

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at  
Chairperson

9:00 a.m./~~xxx~~ on TUESDAY, FEBRUARY 20, 1990, 19.90 in room 529-S of the Capito

~~xxx~~ members ~~were~~ present ~~except~~

Senators Anderson, Karr, Kerr, McClure, Moran, Parrish, Salisbury, Strick and Yost.

Committee staff present:

Bill Wolff, Research Department  
Louise Bobo, Committee Secretary

Conferees appearing before the committee:

Jim Turner, Ks-Nebr. League of Savings Institutions  
Dave Douglass, KS Savings and Loan Commissioner  
Pete McGill for Michael Fahrbach, President, Independent Bankers Association

Chairman Bond called the meeting to order at 9:17 a.m.

SB 455 - Relating to savings and loan associations; authorizing certain acquisitions.

Jim Turner, KS-Nebr. League of Savings Institutions, addressed the committee in support of the above-mentioned bill which would allow for reciprocal interstate acquisition by state-chartered savings and loan associations. (Attachment 1)

Dave Douglass, Savings and Loan Commissioner of Kansas, spoke briefly to the committee in favor of this bill and told the committee that we already had interstate banking in Kansas, like it or not. Mr. Douglass stated that he had one minor suggestion for an amendment to the bill concerning inserting the word ownership and, other than that, his group felt this was needed to enable them to compete in the marketplace.

A brief discussion ensued with committee members concerned about the degree of authority actually left to the state savings and loan commissioner. Mr. Douglass told the committee that he works alongside the federal authorities and that it is no secret that states now have limited authority under new Federal law.

Pete McGill, McGill and Associates, read the written testimony of Michael Fahrbach, President of the Kansas Independent Bankers Association, who was unable to be present. According to Mr. Fahrbach's testimony, SB 455 is redundant and unnecessary and informed the committee that FIRREA already permits the type of activity that this bill would enact. (Attachment 2)

There being no further conferees, Chairman Bond pronounced the hearing on SB 455 closed. A short discussion followed with committee members uncertain as to the intent and necessity of the bill. There was confusion over the current law's application to failing thrifts as well as healthy ones. Staff informed the committee that current law was intended to address supervisory purchases only while SB 455 goes a step farther and applies to healthy institutions. There being no consensus among the committee members concerning this bill, Chairman Bond announced that this discussion would continue at 9:00 a.m. on Monday, February 26, 1990. He requested Staff to prepare suggested amendments to this measure.

Minutes of Wednesday, February 14, 1990 and Thursday, February 15, 1990, were approved on a motion by Senator Strick with Senator Yost seconding the motion. The motion carried.

Chairman Bond adjourned the meeting at 10:03 a.m.



Kansas-Nebraska  
League of  
Savings  
Institutions

James R. Turner, President

Suite 512  
700 Kansas Avenue  
Topeka, Kansas 66603  
(913) 232-8215

February 20, 1990

TO: SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE  
FROM: JIM TURNER, KNLSI  
RE: S.B. 455 (S&L INTERSTATE ACQUISITION)

Mr. Chairman. Members of the Committee. The Kansas-Nebraska League of Savings Institutions appreciates the opportunity to appear before the Senate Committee on Financial Institutions and Insurance in support of Senate Bill 455 which would allow for reciprocal interstate acquisition by state-chartered savings and loan associations.

In 1987, the Kansas Legislature enacted statutes to allow reciprocal interstate branching by savings and loan associations for supervisory purposes (K.S.A. 17-5229 and K.S.A. 17-5230). This action was taken in response to actions of the FSLIC allowing interstate acquisition of failed or failing thrifts and the Kansas law was worded to limit the state-chartered branching to similar situations, i.e., "such regulations shall not exceed the authority granted to federally chartered....."

To date no state-chartered institution has utilized this authority although several have explored the opportunity. However, several Federal institutions have entered Kansas: First Federal, Lincoln, Nebraska; Commercial Federal, Omaha, Nebraska; World Savings, Oakland, California; Home Savings, Kansas City, Missouri; and Household Bank, Huntington, California.

The provisions of S.B. 455 would expand present Kansas statutes to allow interstate acquisition among healthy thrift institutions provided there was reciprocity with other states. The bill would not allow for de novo branches. A survey of KNLSI members last fall resulted in 90% support for some type of interstate expansion and a near unanimous vote of our Federal and State Affairs Committee approved support of S.B. 455. The two dissenting votes felt that de novo branching should have been included. The FSA Committee felt that capital invested in an acquisition was an important consideration.

*Hawaii* At the present time all but Montana, North Dakota, Nebraska, and ~~Alaska~~ allow for interstate acquisition or branching by thrift institutions.....Oklahoma has nationwide, Missouri has contiguous states, and Colorado has nationwide in 1991.

*Attachment 1  
FI + I  
2/20/90*

The FIRREA law enacted by Congress in August, 1989, completely revamps the structure and operations of the savings and loan industry. Not only does the FIRREA law allow Bank Holding Companies to acquire healthy thrifts, regardless of state law prohibitions, but also established the Resolution Trust Corporation (RTC) to provide for the resolution of failed institutions with the RTC having pre-emptive rights relative to State law restrictions on interstate acquisition or branching.

There are presently 52 savings and loan institutions in Kansas of which 15 are "presently" wards of the Resolution Trust Corporation and in the process of resolution. Of the remaining 37 institutions, 13 were required to file capital plans with the District Office of Thrift Supervision on January 8. We project that nearly all of the 13 will have their capital plans approved but will face difficult challenges over the next four years.

The future of a healthy thrift industry, and the corresponding reduction of cost to the taxpayer, warrants serious consideration of S.B. 455. We would submit the following:

1. Section 601 of FIRREA allows bank holding companies to acquire healthy thrift institutions without being subject to the Douglas amendment, i.e., it pre-empts State law or restrictions. The five year SAIF premiums will discourage all but large Regional or Money Center banks participation but we recognize the prospect that selected institutions in Kansas may be "cherry picked" in this process.
2. The provisions for Bank holding companies and RTC acquisitions places Kansas domiciled thrifts at a severe economic disadvantage in determining the future of their institutions. This is particularly true for the marginally healthy institution that would have an opportunity to be recapitalized at no expense to the taxpayer.
3. The need to attract capital is essential. A market exists in other states for the acquisition of healthy thrifts on an interstate basis.
4. The inter-acquisition by thrifts across state lines retains housing lenders in Kansas communities as well as the retention of deposits and services within the thrift industry.
5. The retention of SAIF deposits and S&L premiums payers reduces the resolution cost the taxpayer.
6. A progressive Kansas statute lends itself to the establishment of a regional S&L headquartered in Kansas.

Finally, we share the committee's concern about continued community involvement by acquiring institutions. The Community Reinvestment Act of 1978 required financial institutions to define their service and lending territory and be held accountable for meeting their CRA statement. The penalty for failure to meet CRA has been restrictions on branches and acquisitions.

The focus of CRA was changed by the FIRREA law. The restrictions on acquisition and branching remain, with two significant changes added: (1) specific compliances examinations.....separate examinations of Kansas thrifts are already underway by the District Office of Thrift Supervision, and (2) public disclosure of an institutions' CRA ratings starting July 1, 1990. The regulatory agencies must provide a written CRA performance evaluation based on a four-tiered descriptive rating system. For the committee's review we have enclosed the "Assessment Factors" to be utilized by the Federal regulatory agencies in arriving at the CRA evaluations.

While we do not object to the inclusion of State CRA provisions being made a part of S.B. 455 we do feel it is redundant to Federal regulatory oversight. However, we do object to the inclusion of penalty provisions as were incorporated as a part of S.B. 532. Thrift institutions currently must meet a 60% real estate lending test, which becomes 70% in 1991, and do not have the flexibility of lending and investment options of commercial banks. There is sufficient challenge in meeting the Federal CRA mandates without adding another compliance layer, with penalties, at the State level. We have concern that such language would serve as a deterrent to interstate acquisition in Kansas.

In conclusion, we would request the committee's earliest consideration of reporting S.B. 455 favorably for passage.

James R. Turner, President  
Kansas-Nebraska League of Savings Institutions

JRT:bw

Encl.

**17-5229.** Establishment of branch office in another state, when. Subject to such prohibitions, limitations and conditions as the state savings and loan commissioner may by regulation prescribe, any state chartered savings and loan association having its home office in this state may establish and operate a branch office in a state other than Kansas if the law of that state in which the branch is to be located permits the establishment and operation of such branch office by an association with its home office located in Kansas. Such regulations shall not exceed the authority granted to federally chartered savings and loan associations to operate a branch in a state other than Kansas.

History: L. 1987, ch. 83, § 1; April 23.

**17-5230.** Establishment of branch office in state by out-of-state savings and loan, when. Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, the commissioner may allow any state chartered savings and loan association having its home office in a state other than Kansas to establish and operate a branch office in the state of Kansas if the law of the state where the home office of the association is located permits the establishment and operation of such branch offices in that state by associations with home offices in Kansas. Such regulations shall not exceed the authority granted to federally chartered savings and loan associations to operate a branch in a state other than Kansas.

History: L. 1987, ch. 83, § 2; April 23.

## COMMUNITY REINVESTMENT ACT

### **ASSESSMENT FACTORS**

The 12 assessment factors contained within five proposed performance categories are:

- I. Ascertainment of community credit needs, reasonableness of delineated community
  - Activities conducted to ascertain credit needs
  - Extent of board of directors participation
  
- II. Marketing and types of credit extended
  - Extent of marketing and special credit programs
  - Level of loan originations including housing rehabilitation, small business and farm loans
  - Participation in government-insured and -subsidized programs
  
- III. Geographic distribution and record of opening and closing offices
  - Geographic distribution of credit extensions
  - Office openings/closings and services provided
  
- IV. Discrimination and other illegal credit practices
  - Practices intended to discourage applicants
  - Evidence of discriminatory or other illegal credit practices
  
- V. Community development
  - Participation in local community development and redevelopment projects
  - Ability to meet various credit needs
  - Any other factors regarding an institution's helping to meet credit needs

TESTIMONY  
BEFORE THE  
SENATE  
FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE  
ON  
SENATE BILL 455  
BY  
MIKE FAHRBACH  
TUESDAY, FEBRUARY 20, 1990

*Attachment 2  
FI + I  
2/20/90*



Mr. Chairman and Members of the Committee:

My name is Mike Fahrback, President of the Haven State Bank in Haven, and I am currently serving as President of the Kansas Independent Bankers Association.

You have before you today for consideration, Senate Bill 455, an act relating to savings and loan associations which authorizes certain acquisitions. I am here to testify to the fact that this legislation is redundant and unnecessary.

Early in the session, the Kansas Legislative Research Department reported to you about the Financial Institutions Reform, Recovery and Enforcement Act of 1989. This bill, known by its acronym, FIRREA, already permits the type of activity you are being asked to enact.

In addition to the many other aspects of FIRREA, the law enables Savings and Loan Associations, whether state or nationally chartered, to buy either failing or healthy thrifts in other states. From this standpoint, enacting SB 455, at this point in time is superfluous. Surely, the legislature has enough work to do without adopting a law the Federal government has already seen fit to enact.

Ladies and gentlemen, you have already heard our arguments against out-of-state ownership of financial resources. Although the historic conditions of the savings and loan industry have been somewhat different from banking regulations, you can judge for yourselves the results of too much concentration of assets into the hands of a few.

In view of the condition of the savings and loan industry in the nation, we respectfully suggest that since Congress has taken on the Herculean task of re-regulating the de-regulated, that the Federal law be allowed the time to work. Kansas is not the only state experiencing a serious declining condition of some of its S&L's. But the problem is occurring nationwide and thus the solution is being handled nationwide.

The members of the Kansas Independent Bankers Association remain committed to a principal of safety and soundness for the depositor's dollars, whether it be in the banking industry or the savings and loan industry. We can see no evidence that adoption of SB 455 would enhance or disfavor the public's confidence in savings and loans located within the state. Current insolvent S&L institutions in Kansas are eligible for purchase by either banks or savings and loans under the enabling legislation of FIRREA. Therefore, SB 455 is redundant and unnecessary. There is absolutely no reasonable need for its enactment.