

Approved *D. Gross* 3-4-91
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

The meeting was called to order by Representative Delbert L. Gross at
Chairperson

3:30 a.m./p.m. on February 20, 1991 in room 527-S of the Capitol.

All members were present except: Representatives Adam, Johnson, King, and Teagarden, Excused.

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

Conferees appearing before the committee: Stan Lind, Associated Financial Services, Inc.

The Chairperson called the meeting to order at 3:30 P.M. and opened the hearing on HB 2378.

HB 2378 is an Act relating to the regulation of credit service organizations; providing penalties.

Mr. Lind testified in support of HB 2378, stating this legislation has been requested by the National Foundation of Consumer Credit to repair credit reports for people who have incurred trouble with their credit.

These credit services advertise they can restore credit, and the fact of the matter is they cannot make any changes in the records of the credit bureau. This is misrepresentation.

It is our contention that if the public was told what a credit services organization could do for them they would not spend the money to retain them. Actually, they cannot do anything for them they cannot do for themselves. It is felt the public will not go to the credit service organization if they know what they are getting.

The National Foundation of Consumer Credit hopes this will be adopted nation-wide.

Mr. Lind further stated he did not know there was a credit doctor in the state of Kansas but was shown a letter from a service in Emporia today stating they are in this type of business. If this legislation were in effect, there would be no such agency.

The only thing a service can do is what a person can do for themselves; they can go to a credit bureau themselves and get this information at no charge. Therefore, they should not pay money for this service. This is not a debt adjustment service.

Representative Long stated that on Page 4, Line 25, the word "not" should be struck and the sentence should read: "The consumer credit commissioner may require a credit services organization to provide information other than that provided in the registration statement."

Staff suggested on Page 1, Line 22, that payment "or" money should be changed to read payment "of" money.

Mr. Lind stated the National Credit Association is trying to conform legislation throughout the U.S. (See Attachment #1).

The Chairperson closed the hearing on HB 2378 and stated final action would be taken on HBs 2355 and 2378 and there will be hearings on HBs 2250 and 2251 on February 25, 1991.

The meeting adjourned at 3:45 P.M.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

The Kansas Association of Financial Services

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TELEFAX MESSAGE

FAX No. 913/371-6979

2-27-91

Date

TO :

~~Rep. Delbert Gross~~ (Attention: Secretary) ✓
State House - Room 115-S
Fax No. 296 - 1154

FROM :

Stan Lind

NUMBER OF PAGES:

4

(inclusive of the cover letter)

COMMENT:

per your request

2-20-91
CFV
#

H.B. 2378

Statement by Stanley L. Lind,
Counsel & Secretary of the
Kansas Association of Financial Services
Before the House Commercial & Financial
Institutions Committee on February 18, 1991

Mr. Chairman and Members of the Committee. I am Stanley L. Lind, Counsel & Secretary of the Kansas Association of Financial Services, the state trade association of the consumer finance companies in Kansas. I appear here in support of H.B. 2378.

1. Our state and national trade associations are members of the National Foundation for Consumer Credit. This is a national organization to which practically every nationwide credit granting business and national trade association interested in consumer credit belongs. The National Foundation is the national organization that sponsors some 300 Consumer Credit Counselling Agencies across the country. There are three and possibly four such agencies in Kansas. These are local agencies that provide consumer credit counselling without charge to the public.

The National Foundation for Consumer Credit has drafted a model bill to regulate credit service organizations. It has been adopted in approximately 35 states -and- is being introduced in 12 states in 1991. H.B. 2378 is copied after this model act. Our Kansas association requested the bill to be introduced after being asked by the National Foundation to do so.

2. H.B. 2378, if enacted, would regulate credit service organizations commonly called "credit doctors" -or- "credit repair clinics". These organizations advertise that they can "repair" or "cure" those persons who suffer from a bad credit reputation by reason of their credit problems. I have distributed to the committee a copy of an advertisement from a newspaper which shows how they advertise. (See attached copy). They purport to be able to "cure" a debtor's credit problems under all circumstances - which is not possible, unless there is incorrect or out-dated information of record concerning a particular person. It is our contention that if a credit service organization is honest with its clientele as to what it can do to assist its client, that the public will not patronize these organizations.

3. The Fair Credit Reporting Act (under both federal and state law) requires that any credit bureau which has issued a credit report which has caused a creditor to turn-down a credit extension to a given person, then that credit bureau is obligated to advise the consumer the content of its credit records at no cost.

The present law further provides that if there is any out-dated or incorrect information in the credit record, that the credit bureau is obligated to expunge its record without cost. On the other hand - if the information of record is correct or not out-dated, then no one can make the credit bureau expunge its records.

The bottom line -is- that all a credit service organization can do to assist a debtor -is- to advise the consumer of his/her rights under the Fair Debt Reporting Act.

4. H.B. 2378 would compel these organizations to:

- a) be licensed;
- b) be bonded;
- c) issue a Disclosure Statement to the debtor stating what services will be furnished and its costs;
- d) disclose the consumer's rights under the Fair Debt Reporting Act;
- e) the availability of Consumer Credit Counselling Agencies;
- f) state that correct information can not be expunged from credit bureau records.

5. Each contract between the debtor and credit service organization would have to detail the services to be performed and the cost therefor -and- provide for a three day cancellation provision.

6. The bill also provides for damages, attorney fees and places the organizations within the scope of the Kansas Consumer Protection Act.

7. It exempts financial institutions, lawyers, brokers, credit bureaus and those others engaged in the business of extending credit.

8. We submit that if the consumer is furnished with all of the above that the public will not pay for services which are already available without cost.

While the bill is regulatory in nature, we submit that the requirements of the bill will make it prohibitory for such organizations.

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