

Approved Del Gross 4-8-91
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 ~~am~~/p.m. on March 27, 1991 in room 527-S of the Capitol.

All members were present except: Representatives Roy, Teagarden and Wagle, Excused.

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

Conferees appearing before the committee: Stan Lind, Association of Financial Services

The Chairperson called the meeting to order at 3:30 P.M., and opened the hearing on SB 100.

Stan Lind, Association of Financial Services, testified in support of SB 100, stating that as amended, K.S.A. 16a-3-308 complies with the federal statutes, which pre-empted 16a-3-308, insofar as loans secured by real estate mortgages are concerned. If a balloon note is used, upon maturity, it must be refinanced upon the same terms as the original contract. As amended, SB 100 will make 16a-3-308 comply with federal law, insofar as real estate loans are concerned. (See Atch #1).

The Chairperson closed the hearing on SB 100.

The Chairperson asked what the committee's wishes were on HB 2377. Staff gave a review of HB 2377.

Representative King moved and Representative Cates seconded to move HB 2377 out of committee favorably. The motion carried.

The Chairperson asked if the committee wished to take final action on SB 100 or meet again to take final action.

Representative Long moved and Representative Shallenburger seconded to move SB 100 out of committee and put on the consent calendar. The motion carried.

Representative Long moved and Representative Johnson seconded that the minutes of March 4 and 25 be approved. The motion carried.

The meeting adjourned at 3:45 P.M.

Date: 3/27/91

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

NAME	ORGANIZATION	ADDRESS
Stan Lind	Ks. Assn. of Financial Services	K.C. Ks.
JEFF SANNICH	KNLSI	TOPEKA
Kathy Dahn	Ks Bankers Assn	"
Dorey McPott	Intern	Great Bend
Judy	KBA	Topeka

S.B. 100, As Amended
by the Senate Financial Institutions
and Insurance Committee

1. The purpose of S.B. 100, as amended is to make K.S.A. 16a-3-308 to comply with the federal statutes, which pre-empted 16a-3-308, insofar as loans secured by real estate mortgages are concerned.

2. 16a-3-308, which is a part of the U.C.C.C., provides that if a balloon note is used, upon maturity, it must be refinanced upon the same terms as the original contract.

3. In 1982, Congress enacted the Garn-St. Germain bill which provides [12 U.S.C. Sec. 3803(c)] for a) alternative mortgage transactions which are secured by an interest in residential real property which includes an adjustable rate note with a balloon payment; and b) that the federal statute pre-empts the laws of the several states on this subject.

4. Since the very purpose of an adjustable rate note and mortgage is to provide for the periodic adjustment of the a) interest rate, b) term and/or c) the instalment payment, adjustable rate contracts are by definition in conflict with the provisions of 16a-3-308.

5. While those used to dealing with these instruments are knowledgeable about this inconsistency -and- of the federal supremacy, the present statute (16a-3-308) is mis-leading to those who are not aware of the federal act and its supremacy.

6. One of the virtues of the Kansas U.C.C.C. has been its clarity so that there is no need to seek assistance outside the Code. By reason of this, relatively few appellate court cases have been found necessary to interpret the U.C.C.C.

7. S.B. 100, as amended, will make 16a-3-308, comply with federal law, insofar as real estate loans are concerned.

3-27-91
CF&I
Atch #1