

Approved _____

Date

3/25/91

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. ~~XXXX~~ on TUESDAY, MARCH 19, 1991 in room 529-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~:

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

Committee staff present:

Bill Wolff, Research Department
Fred Carman, Revisors Office
Louise Bobo, Secretary

Conferees appearing before the committee:

Neil Arasmith, Consumer Credit Commissioner
Nancy Ulrich, Assistant Attorney General
Timothy O'Brien, American Gold, Inc.
Dick Brock, Kansas Insurance Department

Chairman Bond called the meeting to order at 9:14 a.m.

SB 363 - UCCC: loan finance charges for certain loans.

Neil Arasmith, Consumer Credit Commissioner, appeared before the committee to explain that this bill was requested by him because the practice of "check cashing" had surfaced in Kansas and such a practice is in violation of the Uniform Consumer Credit Code. Commissioner Arasmith advised that this type of business advances cash on a person's personal check and then holds the check until pay day. The charge for this service varies but can amount to as much as 580% over a two week period. He informed the committee that, since there appears to be a need for this type of service, they need to have legislation to control the transactions. (Attachment 1)

Discussion followed. One committee member questioned the interest rates. Commissioner Arasmith replied that we were talking about relatively small amounts of money for very short periods of time and interest rates were usually higher for short periods. He also stated that check cashing services say that they are not in the loan business but the Attorney General says they are. A member also informed the committee that most check cashing services require an ID before cashing a personal check and they charge for this service in addition to handling and interest charges. Commissioner Arasmith proposed amendments to the bill that would reduce the cash advance to a maximum of \$300 and would round off other amounts throughout the bill. (Attachment 2)

Nancy Ulrich, Assistant Attorney General, appeared before the committee in support of SB 363. She agreed with Commissioner Arasmith that there was a strong public interest in having access to this type of service and, therefore, there was a need for stronger regulation to curb current and potential abuses. According to Ms. Ulrich, the Uniform Consumer Credit Code does not address the short term loan. Ms. Ulrich stated that SB 363 would allow the check cashing services to charge reasonable fees and would allow the Consumer Credit Commissioner to regulate and examine them. (Attachment 3)

Timothy M. O'Brien, representing American Gold, Inc., presented testimony in favor of SB 363. Mr. O'Brien suggested several changes in the bill which he felt would simplify the transactions: (1) reduce the number of levels from the present number to one or two and incorporate a less complicated rate structure, and (2) combine the two types of charges into one "acquisition charge". (Attachment 4)

There being no further conferees, Chairman Bond announced the hearings on SB 363 closed.

HB 2145 - Insurance brokers; post licensure education requirements.

Dick Brock, Kansas Insurance Department, appeared before the committee stating that this bill was introduced at their request and would amend the minimum education requirements

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.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m.~~p~~m. on TUESDAY, MARCH 19,, 1991.

for insurance brokers. Mr. Brock advised that some of the amendments to the bill simply remove obsolete or redundant provisions of the law. The more substantive amendments specify the type of courses acceptable for completion of the post licensure education requirement. (Attachment 5)

Senator Strick made a motion to place HB 2145 on the Consent Calendar. Senator Parrish seconded the motion. The motion carried.

The Chairman requested the committee's wishes concerning SB 363. A member asked if this type of service could operate without passage of this bill. Another member replied that they could operate but that they could not give cash advances.

Senator Strick made a motion to accept the amendments to the bill as proposed by Commissioner Arasmith. Senator Reilly seconded the motion. The motion carried.

Senator Anderson made a motion to recommend the bill, as amended, favorable for passage. Senator Reilly seconded the motion. The motion carried.

The meeting adjourned at 10:00 a.m.

Testimony by Consumer Credit Commissioner
on Senate Bill No. 363 before the
Senate Committee on Financial Institutions and Insurance

We requested the introduction of Senate Bill 363 because of a practice that has sprung up in Kansas known as "check cashing" and which we referred to the Attorney General's office as being in violation of the Uniform Consumer Credit Code.

These people were advancing cash on a person's personal check and holding the check until pay day. The charge for doing this was 25% of the amount of cash advanced and was included in the check. The annualized percentage rate on these transactions figured out for two weeks to be 580%.

The reason for the delay in introducing the bill was that we were waiting to hear from the attorney general. They have now forced these operations to cease doing business but feel there is a need for legislation that specifically addresses these operations as there is apparently a need for the service.

This bill is patterned after the Oklahoma law with a few variations. Even though the rates still seem high, we must keep in mind that these are small transactions and are for a short period of time and those offering the service need to be adequately compensated.

Thank you.

Attachment 1
FI & I
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SENATE BILL No. 363

By Committee on Ways and Means

3-5

8 AN ACT concerning the uniform consumer credit code; loan finance
9 charges for certain loans.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (1) On consumer transactions in which cash is ad-
13 vanced in exchange for a personal check and the cash advance is
14 ~~\$500~~ or less, a supervised lender may charge in lieu of the loan
15 finance charges specified in K.S.A. 16a-2-401 and amendments
16 thereto the following amounts:

\$300.00

17 (a) On any amount up to and including ~~\$68.98~~, a charge may be
18 added at the ratio of \$2.30 for each \$11.50 cash advanced to the
19 borrower;

\$70.00

20 (b) ~~on any cash advance in an amount in excess of \$68.98 up to~~
21 ~~and including the amount of \$80.50, there shall be allowed an ac-~~
22 ~~quisition charge for making the advance not in excess of 1/10 of the~~
23 ~~amount of the cash advanced. In addition thereto, an installment~~
24 ~~account handling charge shall be allowed not to exceed \$6.00 per~~
25 ~~month;~~

(b)

\$70.00

26 (c) ~~on any cash advance of an amount in excess of \$80.50 but~~
27 ~~not more than \$161, there shall be allowed an acquisition charge~~
28 ~~for making the advance not in excess of 1/10 of the amount of the~~
29 ~~cash advanced. In addition thereto, an installment account handling~~
30 ~~charge shall be allowed not to exceed \$8.05 per month;~~

\$160.00

31 (d) ~~on any cash advance of an amount in excess of \$161 but not~~
32 ~~in excess of \$230, there shall be allowed an acquisition charge for~~
33 ~~making the advance, not in excess of 1/10 of the amount of the cash~~
34 ~~advanced. In addition thereto, an installment account handling~~
35 ~~charge shall be allowed not to exceed \$9.20 per month;~~

\$7.00

\$160.00

36 (e) ~~on any cash advance in an amount in excess of \$230 up to~~
37 ~~and including the amount of \$345, there shall be allowed an ac-~~
38 ~~quisition charge for making the advance not in excess of 1/10 of the~~
39 ~~amount of the cash advance. In addition thereto, an installment~~
40 ~~account handling charge shall be allowed not to exceed \$10.35 per~~
41 ~~month;~~

(d)

\$9.00

\$300.00

42 (f) ~~on any cash advance of an amount in excess of \$345 but not~~
43 ~~more than \$500, there shall be allowed an acquisition charge for~~

\$10.00

Attached 2
F I + I
3/19/91

2-2

1 ~~making the advance not in excess of 1/10 of the amount of the cash~~
2 ~~advance. In addition thereto, an installment account handling charge~~
3 ~~shall be allowed not to exceed \$11.50 per month.~~

4 (2) The maximum term of any loan made under the terms of this
5 section shall be one month. Handling charges on loans made under
6 subsections (b) to (f), inclusive, shall be a pro rata portion of the
7 monthly installment account handling charge.

8 (3) ~~On such loans under this section, no insurance charges or~~
9 ~~any other charges of any nature whatsoever shall be permitted.~~

10 (4) The acquisition charge authorized herein shall be deemed to
11 be earned at the time a loan is made and shall not be subject to
12 refund. On the prepayment of any loan under this section, the
13 installment account handling charge shall be subject to the provisions
14 of K.S.A. 16a-2-510 and amendments thereto as it relates to refunds.
15 Provisions of K.S.A. 16a-2-502 and amendments thereto as it relates
16 to delinquency charges and K.S.A. 16a-2-503 and amendments
17 thereto as it relates to deferral charges shall apply to loans made
18 under this section.

19 (5) This section shall be supplemental to and a part of the uniform
20 consumer credit code.

21 Sec. 2. This act shall take effect and be in force from and after
22 its publication in the Kansas register.

Except as otherwise provided
in section (4),



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

Testimony of
Nancy L. Ulrich
Assistant Attorney General
Before the Senate Financial Institutions
and Insurance Committee
RE: Senate Bill 363
March 19, 1991

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

On behalf of Attorney General Bob Stephan and Consumer Credit Commissioner, Neil Arasmith, I ask for your support of Senate Bill 363. Because of the strong public interest in short-term, personal check loans, the potential abuses under the current laws and the need for uniform enforcement and regulation, we feel passage of this bill is important. Essentially, SB 363 provides a rate structure for various loan amounts, caps the total amount of money borrowed at \$300.00, and incorporates sections of the Consumer Credit Code.

It is interesting that our office and the Consumer Credit Commissioner's office received very few complaints about these "check-cashing companies" before we took action to enforce the Consumer Credit Code and the Consumer Protection Act, despite the fact that customers paid interest rates from 600% to 1600% APR and often were charged fee after fee when a check did not clear the bank.

Attachment 3
7 I & J
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In February and March, our office subpoenaed 7 companies and examined their records; all companies but one subsequently closed its Kansas business. Recently we have received many phone calls from consumers asking when these companies will reopen.

Under the current statutes, finance companies can charge only \$7.50 on loan amounts over \$75.00. Due to the relatively high risk involved in check cashing transactions, these companies do not feel they can operate and realize any profit at the present rates. SB 363 would allow finance companies to charge higher, but still reasonable, fees and would allow the Consumer Credit Commissioner to regulate and examine these transactions within the Consumer Credit Code.

I urge your support of Senate Bill 363.

SENATE FINANCIAL INSTITUTIONS AND FINANCE COMMITTEE
MARCH 19, 1991
HEARINGS ON SENATE BILL 363
SUMMARY OF TESTIMONY OF TIMOTHY M. O'BRIEN

We would join with the Attorney General and the Credit Commissioner and urge this Committee to recommend that Senate Bill 363 be passed, albeit in a slightly amended form. This Bill represents a workable regulatory scheme for delayed deposit transactions of small amounts for short periods of time. As the Attorney General's office can attest, check cashers provide a valuable service to Kansas consumers in an area that has long been ignored by banks and other financial institutions as too risky.

As Barkley Clark recently wrote, we have some concerns about the complexity of the Bill and believe that Kansas consumers and check cashers would benefit from its simplification. First, we would urge that Senate Bill 363 be modified by reducing the number of levels from the present number to one or two. As a part of this simplification we would urge a less complicated rate structure. Not surprisingly, these transactions carry a high rate of loss for the check cashers. Rate limitations could be increased slightly for the remaining levels to permit check cashers to stay in business by obtaining a reasonable return for the risk taken.

The other important concern is that unlike the Oklahoma statute from which this Bill was modeled, there is no need for both an "installment account handling charge" and an "acquisition charge". By the terms of this Bill, transactions in Kansas are limited to one month. We believe that the two types of charges allowed should be combined into the currently existing "acquisition charge". This would eliminate the need for the refund provisions found in K.S.A. 16A-2-510 and use of the complicated formulas to determine the refunds. As a practical matter, my clients have found that very few consumers will prepay the amounts because these are short term transactions from the outset. Consolidation of the two charges into the "acquisition charge" will simplify the scheme and aid the parties to the transaction and enforcement of the statute.

Attachment 4
7I + I
3/19/91

Testimony By

Dick Brock, Kansas Insurance Department

Before the Senate Committee on Financial Institutions and Insurance
on House Bill No. 2145 as amended

March 19, 1991

House Bill No. 2145 was introduced at the request of the Insurance Department and amends the minimum education requirements applicable to insurance brokers. As a reminder to some and as a matter of information to others, the primary difference between an insurance agent and an insurance broker under Kansas law is that an insurance agent is a legal representative of the insurance company or companies he or she is certified to represent and, generally speaking, an insurance agent is only authorized to do business with companies for whom they have been certified. On the other hand, an insurance broker is a legal representative of the insurance consumer and, under the authority of a broker's license, is authorized to negotiate contracts with any insurance company authorized to do business in Kansas with respect to the kinds of insurance for which a broker's license is held.

From the inception of brokers licensing statutes in Kansas, brokers, because they represent their customers, have been subject to more stringent requirements than agents and that is still true. Today, agents are subject to a continuing education requirement which requires property/casualty agents to complete 12 hours of approved continuing education courses every 2 years. Life/health agents are subject to the same requirement and an agent licensed for both property/casualty and life/health must complete 24 hours every 2 years. Brokers are subject to the same requirements. However, in addition to the continuing education requirements, brokers are also subject to a minimum education or post-licensure requirement. This is the requirement addressed by House Bill No. 2145.

Attachment 5
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The purpose of the amendments proposed by House Bill No. 2145 are really two-fold. First, they are designed to remove obsolete or redundant provisions. In this category is the elimination of the "grandfather" provisions as indicated by the language that has been stricken in lines 21 through 25 and lines 33 through 37. As you will note, the grandfather date has long since expired so these provisions are no longer of any effect. Also in the category of housekeeping amendments is the removal of the word "accounting" in lines 18 and 30. Since business courses meet the statutory requirement and since accounting courses are business courses, the designation of accounting courses as separate qualifying courses is redundant.

The second type of amendments found in House Bill No. 2145 are those of a more substantive nature and these consist of the addition of courses that may be used to complete the post-licensure education requirement.

Specifically, the bill suggests in lines 18 and 30 that life/health or property/casualty college level courses or an equivalent professional designation should be as acceptable as business courses. Also in the substantive category, we include the change shown in lines 18-19 and again in line 31 where the law would be changed so that courses "provided through" an accredited college, university or community college would qualify in lieu of only courses "taught by" such institutions. The House Committee amendments on lines 21, 22, 35 and 35 make it clear that the Commissioner is the authority that makes the equivalency determination.

The remaining amendments are editorial in nature and have no practical effect on the statutory requirement.

We believe the changes proposed by House Bill No. 2145 are constructive amendments that would facilitate compliance with the post-licensure

education requirements applicable to insurance brokers without lessening the value of the requirement.