

Approved 1-28-92
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 January 16, 1992 in room 527-S of the Capitol.

All members were present except: Representatives Grant, Johnson, King, Shallenburger
and Wagle, Excused.

Committee staff present: Bruce Kinzie, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Judi Stork, Deputy Commissioner, Kansas
Banking Department
Sally Thompson, State Treasurer
Wayne Warfel, Credit Union Administrator
William F. Caton, Commissioner, Consumer
Credit Commission
Jim Maag, Senior Vice President, Kansas
Bankers Association

The Chairperson called the meeting to order at 3:30 P.M. and welcomed the members back to the Committee. The Chairperson stated the meetings will start promptly at 3:30 P.M. and adjourn at 4:30 P.M. and the five minute rule will apply. The Chairperson further stated he planned to have all bills out of Committee by February 15.

The following proposals were requested to be introduced as Committee Bills.

Judi Stork, Deputy Commissioner, Kansas Banking Department, requested the following be introduced as committee bills.

1. Amend 9-1111(a) to add "or if approval has been granted by Office of the State Bank Commissioner trust authority exercised."

2. K.S.A. 9-1115 - Surety Bond Coverage. Amend this statute that requires the Commissioner to "approve" the surety bond for each state chartered bank. This language should be changed to require the bank to "provide" the bond to this office and the duty of approval should be deleted. This change would merely reflect what is the current practice.

3. Amend K.S.A. 9-1803 - New Charter Application Fee. Delete the requirement that any unused portion of the application fee on new charters be given to the general fund of the State of Kansas. The Department should maintain those excess funds to supplement our budget thereby reducing assessment costs to all banks.

Amend K.S.A. 9-1804 - Charter Relocation Fee. Delete the requirement that any unused portion of the fee for relocation of a charter be given back to the trust company. The Department should maintain those excess funds to supplement our budget thereby reducing assessment costs to all banks.

4. Amend K.S.A. 9-1703 - Assessment of Banks and Trust Companies. Language should be clarified to include the assessment of trust departments for trust examinations. (See Attachment #1).

Representative Roy moved and Representative Teagarden seconded to accept the above requests and introduce as committee bills. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS,
room 527-S, Statehouse, at 3:30 ~~am~~^{XX}/p.m. on January 16, 1992

Sally Thompson, State Treasurer, requested the following be introduced as committee bills.

1. K.S.A. 10-130, redemption of bonds and payment of interest thereon, duties of treasurers; failure to pay bond moneys, and penalties.

2. K.S.A. 12-1675 - Investment of idle funds of local entities. The proposal would allow temporary notes, no idle fund warrants, time deposits, open accounts and certificates of deposits. The Treasurer also requests representation on the Board. (See Attachment #2).

Representative Roy moved and Representative Graeber seconded to accept the above requests and introduce as committee bills. The motion carried.

Wayne Warfel, Credit Union Administrator, requested housekeeping changes to the Kansas Credit Union Act. The bill is non-controversial. (See Attachment #3).

Representative Kline moved and Representative Teagarden seconded to accept requests as a committee bill. The motion carried.

William F. Caton, Commissioner, Consumer Credit Commission, requested a change to K.S.A. 16a-6-104(4) to include written administrative interpretation and add definition to 16a-1-301. This change would protect lenders from penalties only if they act in good faith on written directives from the Administrator.

Amend UCCC to include new section for short term non-renewable loans. Definition to be added to 16a-1-301: (4) "Written Administrative Interpretation" means any written communication from the Consumer Credit Commissioner which is the official staff interpretation of the Kansas Uniform Consumer Credit Code and Regulations pertaining thereto. Good faith compliance with a written administration affords protection from penalties prescribed in 16a-5-201 for any act done or omitted in conformity with the interpretations may be revised or overruled by a succeeding Commissioner, a Court of Law, Regulation or Legislation. (See Attachment #4).

Representative Roy moved and Representative Dillon seconded to accept the above requests and introduce as committee bills. The motion carried.

Jim Maag, Senior Vice President, Kansas Bankers Association, requested two proposals be accepted as committee bills.

1. K.S.A. 16a-2-501 - Add paragraph (d). A participation fee charged by a supervised financial organization on a monthly, annual or other periodic basis in connection with an overdraft protection open-end credit line.

2. It was requested that Federal Employee Identification Number (FEIN) or Social Security Number be added to paragraph (3) and change paragraph (4) to read: "A financing statement may be amended by filing a writing signed by the secured party except that if any amendment changes the classification or the value of collateral, the amendment must be signed by both the debtor and the secured party. (See Attachment #5).

Representative Watson moved and Representative Minor seconded to accept the above requests and introduce as committee bills. The motion carried.

The meeting adjourned at 3:45 P.M.. The next meeting will be held on January 28, 1992.

Date: 1/16/92

GUEST REGISTER
 HOUSE
 COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

NAME	ORGANIZATION	ADDRESS
JEFF SONNICH	KNCSI	TOPEKA
Jarel Wright	KCU L.	Topeka, Ks
GAIL KRASSON	KSDCU	Topeka, Ks
JOE NEWBERY	KSDCU	TOPEKA Ks
WAYNE WARFEL	KSDCU	TOPEKA, KS
John Peterson	4th Federal	
Wm F. Caton	Cons Cr. Comm	Topeka
Mel Batten	" " "	"
John Hill	State Treasurer's Office	Topeka
Sally Thompson	State Treasurer	Topeka
Joyce Carlson	Bank Commission Office	Topeka
Kevin Glendening	State Banking Department	Topeka
Frank D. Dunnick	Ks Bank Commissioner	Topeka
Judi Stock	Ks Banking Dept - Deputy	✓

New Bills -

Proposed amended 9-1111(a)

" For the purposes of this section, the term 'branch bank' means any office, agency or other place of business located within this state, other than the place of business specified in the bank's certificate of authority, at which deposits are received, or checks paid, or money lent"; or if approval has been granted by Office of the State Bank Commissioner trust authority exercised.

CFJ
1-16-92
Atch #1

MEMORANDUM

TO: Frank D. Dunnick, Bank Commissioner
FROM: Judi M. Stork, Deputy Commissioner
DATE: November 13, 1991
SUBJECT: Proposed Legislative Changes

1) K.S.A. 9-1115 - Surety Bond Coverage

Currently this statute requires the Commissioner to "approve" the surety bond for each state chartered bank. This language should be changed to require the bank to "provide" the bond to this office and the duty of approval should be deleted. This change would merely reflect what is the current practice of this office.

2) K.S.A. 9-1803	- New Charter	\$1,000
K.S.A. 9-1804	- Relocation	500
K.S.A. 9-1111b	- Branch	500
	Branch Relocation	-0-
K.S.A. 9-509	- Money Order License	100
K.S.A. 9-1724	- Merger/P&A	-0-
K.S.A. 9-1722	- Change of Control	-0-
K.S.A. 9-524	- Interstate Banking	5,000

At the present time the fees for various applications with the Commissioner's office are detailed by statute. An amendment to the above statutes should be made to delete the amount of fee required and insert a statement indicating the fees will be set by regulation and refer to the Kansas Administrative Regulation. A new regulation would be drafted setting an updated fee schedule for this department. This would be beneficial for two purposes - 1) the application fees of this department will be detailed in one location, and 2) the fees can be updated more readily to reflect the increasing costs of this department associated with the applications.

K.S.A. 9-1803 - New Charter Application Fee

Delete the requirement that any unused portion of the application fee on new charters be given to the general fund of the State of Kansas. The department should maintain those excess funds to supplement our budget thereby reducing assessment costs to all banks.

K.S.A. 9-1804 - Charter Relocation Fee

Delete the requirement that any unused portion of the fee for relocation of a charter be given back to the bank or trust company. The department should maintain those excess funds to supplement our budget thereby reducing assessment costs to all banks.

K.S.A. 9-1111b - Branch Application Fee

Delete the requirement that any unused portion of the fee for new branches be given back to the bank. The department should maintain those excess funds to supplement our budget thereby reducing assessment costs to all banks.

3) K.S.A. 9-1703 - Assessments of Banks and Trust Companies

Currently this statute allows the banking department to assess the banks and trust companies to fund the department's budget for the coming fiscal year. While this office has always included a trust examination as part of the meaning of "regular examination" for purposes of this statute, the trust departments of banks were not assessed additional fees. As the department is planning to expand the trust examination area in Fiscal Year 1993, and has created a separate "sub-budget" for this purpose, additional revenues will be required to fund this endeavor. It would seem appropriate that such costs be paid by the banks with trust departments and the increased burden not be shared by all Kansas state chartered banks. The KBA Trust Division has been a supporter of the expansion of trust regulation and has previously indicated their willingness to carry the cost burden of improved examinations. The language of this statute should be clarified to include the assessment of trust departments for trust examinations.

MEMORANDUM

TO: Frank D. Dunnick, Bank Commissioner

FROM: Scott D. Lowry, Legal Assistant

DATE: November 14, 1991

SUBJECT: KBA State Affairs Meeting

In 1991 the Office of the State Bank Commissioner proposed four house bills before the House Committee on Commercial and Financial Institutions. All four bills were tabled until the 1992 legislative session.

However, House Bill 2132 (K.S.A. 9-1101) was incorporated into HB 2250 and passed by the 1991 legislature therefore, making Bankers Surety stock a legal investment for state banks.

The remaining three bills should be reconsidered by the House Committee on Commercial and Financial Institutions during the 1992 legislative session. One amendment is cleanup/clarification, the remainder are all substantive changes in banking law.

First, K.S.A. 9-909 (HB 2133, attached): This statute addresses rights and immunities of preferred stockholders. However, the middle paragraph of this statute has a convoluted sentence that begins with permissive language, but ends with mandatory language.

Upon review of the content of this sentence, it is now obsolete because the General Corporation Code, at K.S.A. 17-6401 (attached), already permits a corporation to give preferred stock any type of rights the corporation desires.

Consequently, as this language is confusing in meaning and duplicates the General Corporation, it is best deleted.

Second, K.S.A. 9-1117 (HB 2135, attached): This statute addresses the requirement that bank directors and presidents purchase qualifying shares in order to hold such positions. This statute requires the purchase of \$500 par value of stock.

Presumably, the legislative reasoning is to ensure that a director or president that has a personal investment at stake in the corporation will be more vigilant in the performance of their responsibilities. However, in today's environment of increasing personal director accountability, including breach of fiduciary duty and environmental liability issues, making a director purchase \$500 par value of stock does not ensure a director will be any more vigilant in the performance of his job.

Beyond the ineffectiveness of this statute, it is a regulatory nightmare to enforce. This is especially true with problem banks. These banks are generally in need of a stronger board of directors. However, it is difficult enough for a problem bank to hire new directors because of new liability standards, let alone find a director that will also purchase \$500 par value of stock.

Another problem exists with buy-back agreements between the director and the institution. Most state banks in Kansas are closely held corporations. Therefore, most banks have buy-back agreements that routinely limit voting and dividend rights and give the bank first right of refusal. In fact, some agreements are so restrictive that they require this department's close scrutiny because of the requirements of K.S.A. 9-1118. (See, K.S.A. 9-1118 and HB 2135, attached)

This is the third statute the State Banking Department requests the Committee amend. K.S.A. 9-1118 requires a director or president, upon oath, to state they own in "good faith" qualifying shares. This causes this department to routinely examine buy-back agreements because, depending upon how restrictive the agreement is, it may well violate K.S.A. 9-1118. This regulatory review is inefficient because the purpose to be accomplished by requiring qualifying shares, is accomplished by a person merely taking the responsibilities as a director or president of a bank. Therefore, because of the new accountability standards imposed upon bank directors and presidents, this office should request the Committee repeal K.S.A. 9-1117 and amend K.S.A. 9-1118 to remove the requirement of good faith ownership of qualifying shares.

The fourth statute, K.S.A. 9-1111 (HB 2134, attached) is the branch banking statute. One problem this office and the State Banking Board have with this statute is that it does not provide for the relocation of a branch bank. The Office of the State Bank Commissioner has been interpreting K.S.A. 9-1804 to include the relocation of a branch bank. However, the correct legislative intent of K.S.A. 9-1804 is the relocation of only the bank's corporate headquarters and not branch banks. Therefore, this office should request that K.S.A. 9-1111 be amended to specifically apply to the relocation of a branch bank as well as the establishment of a new branch bank.

Another problem the State Banking Board has with the branching statute is that it requires a hearing for every application that is filed to establish a branch. On some applications there is no opposition to the establishment of a branch and the requirement to hold a hearing is an inefficient use of the State Banking Board's time and resources. Therefore, the State Banking Board requested the Office of the State Bank Commissioner to seek an amendment to K.S.A. 9-1111 that requires a hearing only when written objections are filed in response to the applicant publishing a notice of intent to establish the branch bank. This would permit the State Banking Board to approve new branch locations or mere branch relocations without a hearing when there is no objection to the establishment of the branch bank.

Another issue the State Banking Board struggles with, when approving branch banks, is the lack of a specific reference to the financial condition of the applicant bank in the list of criteria used to approve a branch bank. The State Banking Board desires that a specific reference to the applicant bank's financial history and condition is placed in the statute so they may legitimately examine the financial status of an applicant bank when deciding upon an application. It is obvious that the financial condition of a bank is a legitimate concern when a bank is embarking on a new venture and without a specific reference in this statute, the State Banking Board is reluctant to formally use that as a reason for denial. Instead, the State Banking Board uses the second criterion of the statute that addresses the usefulness and success of the proposed branch.

Another problem with the branching statute concerns only the State Bank Commissioner. When two state banks merge, the surviving bank may operate the acquired bank's branches as branches of the surviving bank. This is also true when the acquired bank is acquired via a purchase and assumption from a receiver. However, the statute has no provision authorizing a bank to operate an acquired bank and the bank's branches when the acquisition is by a normal purchase and assumption. The State Banking Department, as a departmental policy, has interpreted the merger statute to include P&As, provided the shell corporation surrender its certificate of authority to engage in the banking business. However, it is obviously more appropriate to amend the branching statute to specifically provide for this type of acquisition and in light of the trend in Kansas banks of corporate contraction, this type of acquisition shall become more common. Therefore, the Office of the State Bank Commissioner should request the Committee amend the state branching statute to include a specific provision authorizing a state bank that acquires another state bank through a P&A to operate the acquired bank's main office and branches of the acquiring bank.

SDL:dsl

**Investment of Idle Funds of Local Entities
(K.S.A. 12-1675)**

Current Law:

Under current law municipalities are allowed to invest in the following:

Temporary Notes, No Fund Warrants

Time Deposits, Open Accounts, Certificates of Deposits

Must use local banks and savings and loans unless financial institutions won't pay interest earnings equal to or greater than the average yield on a 91-day T-Bill.

Repurchase Agreements

Must use local financial institutions.

Financial institutions may pay rate 2% below the 91-day T-bill rate.

U.S. T-Bills or Notes not exceeding 6 Months

May purchase T-Bills only if local financial institutions will not pay rate of return equal to or greater than 91-day T-Bill rate.

Proposed Law:

Under the proposed law the following investments would be possible:

Temporary Notes, No Fund Warrants

Time Deposits, Open Accounts, Certificates of Deposit

First option given to local banks, but must pay market rate. Market rate is defined as the average yield on equivalent maturities for the following government security and debt obligations:

Treasury Bills, Bonds and Notes
Federal Home Loan Banks
Federal National Mortgage Association
Federal Farm Credit

Repurchase Agreements

First option given to local financial institutions. Local financial institutions must pay market rate.

U.S. T-Bills or Notes not exceeding 6 months

CF&I
1-16-92

Atch # 2

Municipal Investment Pool (Administered by the State Treasurer)
Allows Pooled Money Investment Board to invest money deposited
in fund.

Municipalities investing in fund may be charged up to 1% of
the interest earned.

Investments allowed in pool include the following:

Direct obligations of the U.S. Government.

Obligations of federal agencies (not more than 10% can be
invested in mortgage backed securities).

Time Deposits with Kansas banks.

Repurchase agreements for direct obligations and
obligations of the federal agencies.

Investments allowed with approved investment policy

Municipalities may expand investment options if written
investment policy is annually approved by governing body
and Pooled Money Investment Board.

Investment policy must address safety of principal, liquidity,
yield, diversification, maturity and quality, and
the capability of an in-house investment manager.

Investments include the following:

Direct Obligations of the U.S. Government or any agency.

Obligations of federal agencies (not more than 10% of the
money may be invested in mortgage backed
securities.).

Time deposits with Kansas banks.

Repurchase agreements for direct obligations and
obligations of federal agencies.

Investments allowed with trust departments of commercial banks

Authorized investments include the following:

Direct obligations of U.S. Government or any agency.

Obligations of federal agencies (Not more than 10% of the
money can be invested in mortgage backed
securities).

Time deposits with Kansas banks.

Repurchase agreements for direct obligations and
obligations of federal agencies.

Municipalities may only invest in T-Bills or Notes, the municipal
investment pool fund, investments allowed with an approved
investment policy, and investments allowed with a trust
department if the eligible banks and savings and loans do not
pay market rate.

Iowa Investment problem was due to the following:

Not dealing with a primary dealer, private money manager in Iowa.

Pooling money in a private investment pool, and the money was not guaranteed.

The investment were not made in the public entities name, thus they had no ownership of the securities.

The money manager was trading in Treasury options, and not in Treasury securities.

The Kansas Statute reflecting broader investment options requires:

Public entity would directly invest in government securities

Ownership is with the government entity.

Investments in Treasury options are not allowed.

Only investments in government securities which are guaranteed are allowed.

There must be an in-house investment manager, must trade with a primary dealer. (Statute would not permit hiring outside money managers or financial advisors. In addition, proposed statute requires approval of investment policy by the Pooled Money Investment Board with annual reviews.)

Requires third party custodian

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PUBLIC FUNDS INVESTMENT

The conservative broadening of investment authority of public funds provides for the opportunity for governmental entities to raise revenues without raising taxes. It is the proper exercise of fiduciary responsibility to earn interest on public funds to benefit the taxpayers at every level, always within strict boundaries of safety on return of public funds. As proposed by the State Treasurer and recommended by the Legislative Budget Committee, the statute that will be prefiled broadens the investment authority of the investment of such public funds.

- 1) The public funds will only be invested in government securities if and when the banks decline the funds. Banks have first right of refusal on all funds available. Funds will be available on a continual basis all year long.

When a strong loan demand exists in Kansas the new statute with longer maturities at the government security market rate will create fair profit returns for the Kansas banks.

The primary role of the investment of public funds is investment, not to create economic development within the state of Kansas. Targeting specific economic development should be the role of elected officials (governor, legislators, local officials) to create special programs that can be monitored and accountable. Public funds should earn highest rate possible within safety guidelines which in turn can be returned to the taxpayers of Kansas through distribution of school finance, social services, special economic development programs, etc.

Currently the banks are investing 50 cents of every \$1.00 of Kansas consumer deposits in government securities purchased out of state. Investment of public funds by banks in government securities is probably much higher due to the current short term maturities of public funds.

- 2) Banks are required to collateralize governmental deposits at 100% of market value; otherwise the risk of investment would be equal to the higher risk investment such as unrated corporate paper. Some states require 120% collateral value.
- 3) A competitive bid process for all funds available for investment after a four-year transition period eliminates playing favorites. The funds go to the highest bidder with the market place and loan demand determining need rather than a formula that guarantees banks a favored position and which can also be restrictive curtailing the capacity to respond to marketplace needs for capital in Kansas.
- 4) Lengthening maturities responds both to the needs of Kansas banks as well as to the fiduciary responsibility of the State Treasurer. They do not create more interest rate risk or make additional income possible only in a declining interest rate market. Over a twenty year history (covering the gamut of interest rate ranges) the best earning maturities have been between two to five years. Most importantly, the banks can better use these longer term deposits under the more recent regulations. The two priorities of safety and liquidity are met with good cash management and cash flow as reflected in a variety of safe investments which are maturing constantly.

Investments of public funds

shall be made in accordance with written policies.

Such investment policies shall address:

safety of principal

liquidity

yield

diversification

maturity and quality

capability of investment management

Primary emphasis on safety and liquidity

Investments shall be made with judgment and care under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probably safety of their capital as well as the probably income to be

reading of such coupons on optical character reading equipment.

History: L. 1927, ch. 97, § 1; L. 1967, ch. 77, § 1; L. 1978, ch. 50, § 1; L. 1983, ch. 49, § 27; May 12.

10-127. Same; refusal by state treasurer to register. The state treasurer shall refuse to register any bonds, if any coupons attached thereto are not printed in accordance with K.S.A. 10-126, and amendments thereto. No municipality shall attach to any bond issued by such municipality interest coupons having different rates of interest, and the state treasurer shall refuse to register any bonds issued after the effective date of this act which do not comply with this requirement.

History: L. 1927, ch. 97, § 2; L. 1972, ch. 37, § 2; L. 1974, ch. 45, § 7; L. 1983, ch. 49, § 28; May 12.

10-129. Call of bonds before maturity; notice to state treasurer; paying agent and others; costs. (a) Whenever any municipality orders the call of any bonds issued by such municipality prior to the date of the maturity of such bonds, it shall be the duty of the clerk or secretary of such municipality to notify:

(1) The state treasurer and paying agent of such call by mailing to the state treasurer and paying agent, by certified mail, at least 30 days prior to the date fixed for the call of such bonds, a copy of the order, resolution or ordinance calling such bonds; and

(2) cause the paying agent to notify each presenter of interest coupons or owner of registered bonds that a call has been made as follows:

(A) if the bonds are bearer bonds, each person who last received an interest payment on any such bonds prior to the date fixed for notification of the call of such bonds if the address of such person is known, by mailing to such person, at the last known address thereof, a copy of the order, resolution or ordinance calling such bonds; or

(B) if the bonds are registered, each registered owner of such bonds, or the duly authorized agent thereof, by mailing to such person or authorized agent, at the last known address of such owner or agent, a copy of the order, resolution or ordinance calling such bonds.

(b) Costs associated with the foregoing provisions shall be paid by the municipality ordering the call of such bonds.

History: L. 1941, ch. 101, § 2; L. 1987, ch. 59, § 1; July 1.

10-130. Redemption of bonds and payment of interest thereon; duties of treasurers; requests for money to county treasurers; failure to pay bond moneys; penalty. (a) The treasurer of each municipality shall remit to the state fiscal agent at least 20 days before the day of maturity of any bonds or the interest thereon, payable at the office of the state treasurer as fiscal agent, sufficient moneys for the redemption of such bonds and the payment of the interest thereon. The treasurer of any municipality, in lieu of remitting such moneys to the state fiscal agent at such time, may provide the state fiscal agent with a certificate of a state or national bank or state or federally chartered savings and loan association that there are on deposit in such bank or savings and loan association, held in trust for such state fiscal agent, funds in the form of cash or securities of the United States government, sufficient for the redemption of such bonds or the payment of the interest thereon, and that such funds will reach the office of the state fiscal agent on or before twelve o'clock noon of the third working day before the day of maturity of such bonds or the interest thereon. Upon receipt of such certificate, the state fiscal agent shall file the same in the office of the state fiscal agent.

(b) When a municipality needs moneys that are in the county treasury to redeem any bonds or to pay the interest thereon, the treasurer of such municipality shall make a written request of the county treasurer for the amount needed not later than 25 days prior to the maturity date of the bonds or the interest thereon. Not later than two days following the receipt of such request the county treasurer shall forward to the treasurer of the municipality the amount requested, if the county treasurer has collected the same for such purpose. If the full amount of such a request is not in the county treasury, the county treasurer shall forward that portion that is in the county treasurer's possession for such purpose.

(c) When a county treasurer is charged with the collection of tax moneys for a municipality, the territory of which is in more than one county, such treasurer shall forward any such funds when collected to the proper county treasurer as soon as practical, or not later than two days following receipt of a request from the county treasurer to whom they are to be forwarded.

forever barred from asserting such Claims against the Debtors, the Reorganized Bankers or any of their respective property.

b. Priority Tax Claims. The Debtors are not aware of, and do not believe there are any, Priority Tax Claims due or owing to any taxing agencies. Therefore, this Plan does not provide for treatment of this Class of Claims.

Classified Claims

A. Secured Claims.

The Plan classifies secured Claims (which may include leases that are treated as secured transactions) into the following two Classes:

4.1. Class 1 (Claims of Lessors). Class 1 consists of all other Claims of Lessors against either of the Debtors that are not included in Administrative Claims. Class 1 is not impaired under this Plan. Pursuant to this Plan, each Allowed Claim in Class 1 shall be treated under Option A or Option B below, at the election of the Debtors-in-Possession or the Reorganized Bankers:

Option A: Transfer of the subject collateral to the holder of such Claim in full satisfaction of the secured Claim; or

Option B: Curing of any defaults (other than a default of a kind specified in Section 365(b)(2) of the Bankruptcy Code) and reinstatement of the Claim;

Subject to such limitation, the pertinent Debtor-in-Possession shall be deemed to have elected Option B except with respect to any secured Claim as to which the Debtor-in-Possession elects Option A in writing prior to the Effective Date. The Debtors are aware of no defaults in payments or arrears owing to any Lessor.

4.2. Class 2 (Wrap Mortgages). Class 2 consists of Wrap Mortgages on property in which the Debtors hold a second mortgage. Class 2 is not impaired under this Plan. Pursuant to this Plan, each Allowed Claim in Class 2 shall continue to receive its mortgage payment in accordance with the Debtors' obligation to collect from their Borrowers and remit to the Senior mortgage holder the sums due under the terms of the Senior mortgage holder's note and mortgage.

B. Priority Unsecured Claims.

4.3. Class 3 (Claims of Priority Unsecured Creditors).

Class 3 consists of unsecured Claims against either of the Debtors that are specified as having priority in Section 307(a)(3), (4), (3), or (6) of the Bankruptcy Code. Class 3 is not impaired under this Plan. Payment on a Class 3 Claim will not be made until such payment would have become due in the ordinary course of the subject Debtor's business or under the terms of the Claim in the absence of the Reorganization Cases.

C. Unsecured Claims Without Priority.

The Plan classifies non-priority, general, unsecured Claims into the following three (3) Classes.

4.4. Class 4 (Bankers Thrift and Loan Association and Universal Financial Services, Inc. - Unsecured Investment Certificate Holders - Unsecured Claims of \$2,000 or less, or which have been reduced to \$2,000).

Class 4 consists of unsecured Claims against either of the Debtors in the amount of \$2,000 or less, or which the holder timely elects to reduce to \$2,000 in full and complete satisfaction of his Claim by making such election on the enclosed ballot for accepting or rejecting this Plan and returning the ballot by the ___ day of _____, 1992, that would otherwise be classified in one or more of Classes 5 or 6, in the absence of the existence of Class 4. A holder of a Claim or Claims who would have been classified in one or more of such Classes, absent a timely election to reduce to \$2,000, may elect to reduce to \$2,000 only as to the aggregate of all such holders' Claims, and no Claim of any holder of a Claim that would have been classified in any of such Classes absent such election shall be classified in any of such Classes if the holder makes such election. Neither shall any Claimant who elects to reduce his Claim to \$2,000.00 have any recourse against any other party, including, but not limited to the KICGG Guaranty Fund, for any amounts in excess of \$2,000.00.

Class 4 is unimpaired under this Plan. Pursuant to this Plan each holder of an Allowed Claim in Class 4 shall receive from the Reorganized Bankers on account of such Claim, cash in the amount equal to 100% of such Claim within 30 days following the Effective Date (which amount which in no event shall exceed \$2,000 for any holder of a Class 4 Claim). Any holder of an Allowed Claim that would otherwise

have been classified in either of Classes 5 or 6 but for the timely election by the holder to reduce its Claim to \$2,000, shall receive no other distribution under this Plan on account of the Claim.

4.5. Class 5 (Bankers Thrift and Loan Association Unsecured Investment Certificate Holders - Unsecured Claims Greater than \$2,000.). The members of this Class shall receive, over time, the full face amount of their Claims as those Claims existed on the Filing Date of the Petition. Class 5 Unsecured Investment Certificate Holders of Bankers are impaired. Any member of Class 5 may elect to become a member of Class 4 (Allowed Small Unsecured Claims).

Those creditors of Class 5 who do not elect to become members of Class 4 will be paid in the following manner:

- (i) 30% of the allowed Class 5 Claims will be paid within thirty (30) days from the Effective Date of this Plan;
- (ii) Class 5 Claimants shall be issued promissory notes equal in amount to 48.4% of each Claimant's allowed Class 5 Claims. The promissory notes will be paid in equal semi-annual installments over six years. Interest will be paid at the rate of 5 1/2% per annum simple interest on the unpaid (decreasing) balance. Payments will be based on an eight year amortization rate with a balloon of all unpaid principal and interest at the end of the sixth anniversary of the Effective Date;
- (iii) Each holder of an Allowed Class 5 Claim shall be issued, within sixty (60) days after the Date of Confirmation, one (1) share of \$1.00 par value Preferred Stock of the Reorganized Bankers (the "Preferred Stock") for each \$1.00 of the Claimant's remaining Allowed Class 5 Claim up to an amount not to exceed 10.1% of each Claimant's Allowed Class 5 Claim. No fractional shares shall be issued in computing the amount of shares to which each holder shall be entitled. Amounts shall be rounded to the nearest \$1.00.

The preferred stockholders will be entitled to the following rights and preferences:

- (A) The holders of the Preferred Stock shall be entitled, as a Class, to elect one member of the Reorganized Bankers' Board of Directors;

- (B) The holders of the Preferred Stock shall share pro-rata with Class 6 in any dividends declared and paid. No dividend may be paid on common stock until all Preferred Stock is redeemed.
- (C) The Preferred Stock will be redeemed in full at par value at the earlier of: (a) prior to the distribution of any sums to holders of common stock pursuant to a plan of full or partial liquidation. For this purpose, a "plan of full or partial liquidation" is a plan adopted by the Board of Directors and approved by all Classes of shareholders calling for the discontinuance of the active trade or business of the corporation and the distribution to shareholders of property or proceeds employed in such discontinued trade or business; or (b) the sixth anniversary of the Effective Date of this Plan, at which time the Preferred Stock is subject to mandatory redemption.
- (D) The Preferred Stock is subject to optional redemption, at full par value, by the Reorganized Bankers at any time prior to the sixth anniversary of the Effective Date.
- (E) The Preferred Stock certificates issued in connection with this Plan will not be registered under the Securities Act of 1933 and such shares can be sold or offered for sale only pursuant to registration or exemption therefrom. Each Preferred Stock certificate will be imprinted with the following legend:

"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. §1145 under an order confirming a Plan of Reorganization in a case entitled Bankers Thrift & Loan Association, Debtor, Case No. 91-21309-11, in the United States Bankruptcy Court for the District

of Kansas. The holder of this certificate is referred to 11 U.S.C. §1145(b) and (c) for guidance in the sale of these securities."

4.6. Class 6 (Universal Financial Services, Inc. Unsecured Investment Certificate Holders - Unsecured Claims Greater than \$2,000). The members of this Class shall receive, over time, the full face amount of their Claims as those Claims existed on the Filing Date of the Petition. Class 6 Unsecured Investment Certificate Holders of Universal are impaired. Any member of Class 6 may elect to become a member of Class 4 (Allowed Small Unsecured Claims).

Those creditors of Class 6 who do not elect to become members of Class 4 will be paid in the following manner:

- (i) 30% of the allowed Class 6 Claims will be paid within thirty (30) days from the Effective Date of this Plan;
- (ii) Class 6 Claimants shall be issued promissory notes equal in amount to 48.4% of each Claimant's allowed Class 6 Claims. The promissory notes will be paid in equal semi-annual installments over six years. Interest will be paid at the rate of 5 1/2% per annum simple interest on the unpaid (decreasing) balance. Payments will be based on an eight year amortization rate with a balloon of all unpaid principal and interest at the end of the sixth anniversary of the Effective Date;
- (iii) Each holder of an Allowed Class 6 Claim shall be issued, within sixty (60) days after the Date of Confirmation, one (1) share of \$1.00 par value Preferred Stock of the Reorganized Bankers (the "Preferred Stock") for each \$1.00 of the Claimant's remaining Allowed Class 6 Claim up to an amount not to exceed 10.1% of each Claimant's Allowed Class 6 Claim. No fractional shares shall be issued in computing the amount of shares to which each holder shall be entitled. Amounts shall be rounded to the nearest \$1.00.

The preferred stockholders will be entitled to the following rights and preferences:

- (A) The holders of the Preferred Stock shall be entitled, as a Class, to elect one member of the Reorganized Bankers' Board of Directors;

- (B) The holders of the Preferred Stock shall share pro-rata with Class 5 in any dividends declared and paid. No dividend may be paid on common stock until all Preferred Stock is redeemed.
- (C) The Preferred Stock will be redeemed in full at par value at the earlier of: (a) prior to the distribution of any sums to holders of common stock pursuant to a plan of full or partial liquidation. For this purpose, a "plan of full or partial liquidation" is a plan adopted by the Board of Directors and approved by all Classes of shareholders calling for the discontinuance of the active trade or business of the corporation and the distribution to shareholders of property or proceeds employed in such discontinued trade or business; or (b) the sixth anniversary of the Effective Date of this Plan, at which time the Preferred Stock is subject to mandatory redemption.
- (D) The Preferred Stock is subject to optional redemption, at full par value, by the Reorganized Bankers at any time prior to the sixth anniversary of the Effective Date.
- (E) The Preferred Stock certificates issued in connection with this Plan will not be registered under the Securities Act of 1933 and such shares can be sold or offered for sale only pursuant to registration or exemption therefrom. Each Preferred Stock certificate will be imprinted with the following legend:

"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. §1145 under an order confirming a Plan of Reorganization in a case entitled Universal Financial Services, Inc., Debtor, Case No. 91-21310-11, in the United States Bankruptcy Court for the District of Kansas. The holder of this

certificate is referred to 11 U.S.C. §1145(b) and (c) for guidance in the sale of these securities."

D. *Subordinated Debenture Holders of Bankers Thrift and Loan Association.*

4.7. Class 7 (Holders of Subordinated Debentures of Bankers Thrift and Loan Association). Class 7 consists of the holders and owners of the Subordinated Debentures of Bankers Thrift and Loan Association. The interests of this Class are subordinated to the Claims of other unsecured creditors and the investment certificate holders. The members of this Class shall not be entitled to receive a distribution under this Plan until all Claimants in Classes 1 through 6, inclusive, have been paid in full.

The members of this Class 7 shall be paid in the following manner:

- (i) Each holder of an Allowed Class 7 Claim shall be issued, within sixty (60) days after the Date of Confirmation, one (1) share of \$1.00 par value Preferred Stock of the Reorganized Bankers (the "Preferred Stock") for each \$1.00 of the Claimant's remaining Allowed Class 7 Claim. No fractional shares shall be issued in computing the amount of shares to which each holder shall be entitled. Amounts shall be rounded to the nearest \$1.00.

The preferred stockholders will be entitled to the following rights and preferences:

- (A) The Preferred Stock will be redeemed in full at par value at the earlier of: (a) prior to the distribution of any sums to holders of common stock pursuant to a plan of full or partial liquidation. For this purpose, a "plan of full or partial liquidation" is a plan adopted by the Board of Directors and approved by all Classes of shareholders calling for the discontinuance of the active trade or business of the corporation and the distribution to shareholders of property or proceeds employed in such discontinued trade or business; (b) subsequent to the distribution of all sums due under this Plan

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to holders of other unsecured debt and to the holders of investment certificates; or (c) the sixth anniversary of the Effective Date of this Plan, at which time the Preferred Stock is subject to mandatory redemption.

- (B) The Preferred Stock is subject to optional redemption, at full par value, by the Reorganized Bankers at any time prior to the sixth anniversary of the Effective Date; however no redemption shall occur until and unless the Preferred Stock issued to Classes 5 and 6 have been fully redeemed pursuant to the terms of this Plan.
- (C) The Preferred Stock certificates issued in connection with this Plan will not be registered under the Securities Act of 1933 and such shares can be sold or offered for sale only pursuant to registration or exemption therefrom. Each Preferred Stock certificate will be imprinted with the following legend:

"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. §1145 under an order confirming a Plan of Reorganization in a case entitled Bankers Thrift and Loan Association, Debtor, Case No. 91-21309-11, in the United States Bankruptcy Court for the District

of Kansas. The holder of this certificate is referred to 11 U.S.C. §1145(b) and (c) for guidance in the sale of these securities."

E. *Allowed Interests of Bankers Thrift and Loan Association.*

4.8. Class 8 (Equity Holders of Bankers Thrift and Loan Association). Class 8 consists of the holders and owners of all of the outstanding and issued capital stock of Bankers Thrift and Loan Association. Members of this Class shall retain their interests; however the Confirmation Order shall preclude the holders of equity interests in the Debtor from taking any action or exercising any right attendant to such interest which in any manner is inconsistent with or contrary to the provisions of this Plan. This Class is impaired under this Plan.

F. *Allowed Interests of Universal Financial Services, Inc.*

4.9. Class 9 (Equity Holders of Universal Financial Services, Inc.). Class 9 consists of the holders of all of the outstanding and issued common stock of Universal Financial Services, Inc. Pursuant to this Plan, all existing common stock of Universal Financial Services, Inc. will be merged with and into the Reorganized Bankers. Class 9 is impaired under this Plan.

Article 5

MEANS FOR EXECUTION AND IMPLEMENTATION OF THIS PLAN

5.1. CORPORATE AND FINANCIAL RESTRUCTURING AND MERGERS.

On The Effective Date:

A. All Existing Securities, all existing warrants and all other rights to acquire existing Common Stock of Bankers Thrift and Loan Association and/or Universal Financial Services, Inc. shall be deemed canceled and of no further force or effect, without any further action on the part of any entity.

B. Upon the filing of a Certificate of Merger with all applicable governmental authorities, including, but not limited to, the Kansas Secretary of State, Universal Financial Services, Inc. will be merged into Bankers Thrift and Loan Association pursuant to the terms of the Merger Agreement. The Reorganized Bankers will become the surviving entity without any further action being required to effect such Merger. Pursuant to the Merger, the separate corporate existence of Universal Financial Services, Inc., the merging subsidiary, shall cease. The Reorganized Bankers shall retain the right to merge, consolidate, dissolve or take any other corporate action in accordance with applicable non-bankruptcy law at any time on or after the Effective Date.

5.2. FUNDING OF PLAN.

Funds required to make the payments required by this Plan shall be provided from funds of each of the Debtors' estates, from the funds generated by the operations of the Reorganized Bankers, from funds currently held by the KICGC and from any funds to be borrowed under the terms of any credit agreement.

5.3. REVESTING OF ASSETS.

Except as otherwise provided in any provision of this Plan: (i) on the Effective Date all property of the Estates of each Debtor, including the property of the Merging Subsidiary, Universal Financial Services, Inc., shall vest in the Reorganized Bankers; (ii) from and after the Effective Date, the Reorganized Bankers may use, acquire and dispose of property without supervi-

sion by the Bankruptcy Court free of any restriction of the Bankruptcy Code, other than those restrictions expressly imposed by this Plan and the Confirmation Order.

5.4. MATTERS REGARDING CHARTERS OF REORGANIZED DEBTORS.

On the Effective Date:

1. The Reorganized Bankers shall adopt the Amended Bankers Bylaws pursuant to Section 1123(a)(5)(I) of the Bankruptcy Code. The Amended Bankers Certificate and Bylaws shall contain provisions which will, among other provisions: (i) authorize the issuance of New Bankers Preferred Stock; (ii) prohibit the issuance of non-voting equity securities to the extent required by Section 1123(a)(6) of the Bankruptcy Code; and (iii) provide that the first regular annual meeting of the shareholders of the Reorganized Bankers following the Effective Date shall take place on a date designated by the Board of Directors of the Reorganized Bankers which date shall occur no later than three (3) months following the Effective Date.

5.5. DISTRIBUTION OF CONSIDERATION.

A. *Disbursing Agent.*

The Reorganized Bankers and any other entity or entities as may be approved by the Bankruptcy Court such as an Indenture Trustee or Stock Transfer Agent, shall act as a Disbursing Agent under this Plan. Any such Disbursing Agent may employ or contract with other entities to assist in or to perform the required

PROPOSED AMENDMENTS
to the
KANSAS CREDIT UNION ACT

EXECUTIVE SUMMARY

1/14/92
REV.

CF&I
1-16-92

Atch #3

At the direction of the Governor and the Attorney General's office to amend the Kansas Credit Union Act to make it consistent with other statutes of the State of Kansas, the Kansas State Department of Credit Unions, working with the Kansas Credit Union League, started in 1990 to prepare a complete recodification of the Kansas Credit Union Act.

In the summer of 1991, the State Department of Credit Unions, the Kansas Credit Union League, representatives from the Kansas Attorney General's office, and other interested parties met to review the recodification project and determine the best way to proceed.

A decision was made to amend only those sections of the current Credit Union Act which would be necessary to make the needed changes. With that decision, the parties were asked to identify any additional powers which would benefit credit unions, areas which needed to be changed to make the Credit Union Act consistent with other Kansas statutes, and additional powers for the Kansas State Department of Credit Unions to provide improved regulatory flexibility in administering the Credit Union Act.

This effort has resulted in a draft series of proposed amendments to the Kansas Credit Union Act. As you will see from the materials, most of the Act remains unchanged. We have attempted to make as few changes as possible to achieve the drafting group's objective. It is hoped that this approach will facilitate passage of the amendments.

The proposed changes generally fall into one of four categories. While all of the changes may directly or indirectly affect credit unions, for purposes of this summary, the changes will be classified according to the principal area which is affected. Those areas are:

1. Credit Unions
2. The Credit Union Council
3. Corporate Credit Unions
4. The Kansas State Department of Credit Unions

CREDIT UNION CHANGES

Section 17-2204(8) is proposed to be changed to provide that a credit union can discount and sell interim student loans to anyone.

Section 17-2204(10) is proposed to be changed to permit credit unions to discount or sell U.S. Government, agency or municipal securities to any corporate credit union.

Section 17-2209(d) is proposed to be added to permit credit unions to have an executive committee of the board of directors. This committee would only have those powers of the board as the bylaws would provide. The committee would be able to exercise the powers of the board when it would be difficult to hold a board meeting. Meetings of the executive committee would not count as one of the required board meetings.

Section 17-2212(a) is proposed to be changed to make clear that credit unions retain their statutory lien on shares which may be held by non-members.

Section 17-2212(c) is proposed to be changed to clearly cover all classes of persons who may have an interest in an account at the credit union.

Section 17-2216 is proposed to be changed by deleting subsection (c). This change is intended to make clear that employees of credit unions must be members to borrow money. In addition, this change will also eliminate the need for credit unions to report on loans to employees unless they are also a director or member of the credit or supervisory committee.

Section 17-2226(a) is proposed to be changed to increase to 5% of the credit union's total shareholdings, reserves and undivided earnings, the amount of real estate which a credit union could purchase or lease for its use.

Section 17-2226(b) is proposed to be changed to increase to 5% of the credit union's total shareholdings, reserves and undivided earnings, the amount of equipment or services that a credit union could purchase, contract for, or lease, subject to an overall combined limit with subsection (a) of 5%.

Section 17-2227 is proposed to be changed to provide that all information acquired by the administrator in an investigation or examination is confidential and may only be disclosed as authorized in the act. The Attorney General and the credit union's bonding company are added to those authorized to receive such information.

Section 17-2230(c) is proposed to be changed to make clear that all shareholders have the same priority in liquidation.

Section 17-2230(f) is proposed to be added to provide a definition for the term "nonprofit association" used in Section 17-2231(c).

Section 17-2232(a) is proposed to be changed to make clear that 5 members of the Credit Union Council must be officers of Kansas state chartered credit unions. In addition, this section would also make clear that only Kansas state chartered credit unions can submit names to the governor for membership on the Credit Union Council.

Section 17-2241 is being changed to conform appeals by credit unions under the Credit Union Act with the requirements of the Act for Judicial Review and Civil Enforcement of Agency Action, K.S.A. 77-601 through 77-627.

CREDIT UNION COUNCIL CHANGES

One of the areas in which we were required to make major changes was in the area of responsibility for the Credit Union Council. These changes were necessary as part of the amendments to conform the administration of the Credit Union Act to the requirements of the Kansas Administrative Procedure Act. The proposed changes retain the Council as an adviser to the Kansas Credit Union Administrator (Section 17-2232(c)). However, the council's other statutory powers have been deleted to reflect required or actual administrative processes or practices. These changes are found in 17-2232 through 17-2242.

CORPORATE CREDIT UNION CHANGES

The proposed changes in Section 17-2214(a) provide an express statutory statement of corporate credit union powers. In most cases, the powers reflect activities in which corporates currently engage relying upon incidental powers or interpretation of other powers. These changes will better position Kansas corporate credit unions to defend the nature of their activities. In addition, Section 17-2217(c) is proposed to be changed to establish a required statutory reserve for corporate credit unions.

STATE DEPARTMENT OF CREDIT UNIONS

The proposed changes will affect the Kansas State Department of Credit Unions in three major ways. (1) The Department will have the authority to issue regulations to implement provisions of the Credit Union Act. This will provide regulatory flexibility in interpreting and implementing provisions of the Credit Union Act. This authority is found in Section 17-2206(h); (2) The Department will also be granted conservatorship powers to provide flexibility in managing the affairs of troubled credit unions as may be necessary to protect the members. This proposed change is found in Section 17-2206(i). In addition, proposed changes in Section 17-2206(d) will give the Department the ability to step in as conservator before a credit union reaches the point of insolvency; and (3) Section 17-2206(g) of the act will provide that all administrative proceedings under the act will be conducted in accordance with the Kansas Administrative Procedure Act.

CONCLUSION

In addition to the primary changes previously discussed, several other minor changes are being proposed. These changes are primarily conforming changes to one section caused by changes in another section. In addition, other minor changes include deletion of sections no longer needed such as those dealing with uninsured credit unions.

We believe that the proposed changes will improve the Kansas Credit Union Act and provide greater flexibility for and protection of Kansas Credit Unions.

**Investment of Idle Funds of Local Entities
(K.S.A. 12-1675)**

Current Law:

Under current law municipalities are allowed to invest in the following:

Temporary Notes, No Fund Warrants

Time Deposits, Open Accounts, Certificates of Deposits

Must use local banks and savings and loans unless financial institutions won't pay interest earnings equal to or greater than the average yield on a 91-day T-Bill.

Repurchase Agreements

Must use local financial institutions.

Financial institutions may pay rate 2% below the 91-day T-bill rate.

U.S. T-Bills or Notes not exceeding 6 Months

May purchase T-Bills only if local financial institutions will not pay rate of return equal to or greater than 91-day T-Bill rate.

Proposed Law:

Under the proposed law the following investments would be possible:

Temporary Notes, No Fund Warrants

Time Deposits, Open Accounts, Certificates of Deposit

First option given to local banks, but must pay market rate. Market rate is defined as the average yield on equivalent maturities for the following government security and debt obligations:

Treasury Bills, Bonds and Notes

Federal Home Loan Banks

Federal National Mortgage Association

Federal Farm Credit

Repurchase Agreements

First option given to local financial institutions.

Local financial institutions must pay market rate.

U.S. T-Bills or Notes not exceeding 6 months

Municipal Investment Pool (Administered by the State Treasurer)
Allows Pooled Money Investment Board to invest money deposited
in fund.
Municipalities investing in fund may be charged up to 1% of
the interest earned.

Investments allowed in pool include the following:
Direct obligations of the U.S. Government.
Obligations of federal agencies (not more than 10% can be
invested in mortgage backed securities).
Time Deposits with Kansas banks.
Repurchase agreements for direct obligations and
obligations of the federal agencies.

Investments allowed with approved investment policy
Municipalities may expand investment options if written
investment policy is annually approved by governing body
and Pooled Money Investment Board.
Investment policy must address safety of principal, liquidity,
yield, diversification, maturity and quality, and
the capability of an in-house investment manager.

Investments include the following:
Direct Obligations of the U.S. Government or any agency.
Obligations of federal agencies (not more that 10% of the
money may be invested in mortgage backed
securities.).
Time deposits with Kansas banks.
Repurchase agreements for direct obligations and
obligations of federal agencies.

Investments allowed with trust departments of commercial banks
Authorized investments include the following:
Direct obligations of U.S. Government or any agency.
Obligations of federal agencies (Not more the 10% of the
money can be invested in mortgage backed
securities).
Time deposits with Kansas banks.
Repurchase agreements for direct obligations and
obligations of federal agencies.

Municipalities may only invest in T-Bills or Notes, the municipal
investment pool fund, investments allowed with an approved
investment policy, and investments allowed with a trust
department if the eligible banks and savings and loans do not
pay market rate.

Iowa Investment problem was due to the following:

Not dealing with a primary dealer, private money manager in Iowa.

Pooling money in a private investment pool, and the money was not guaranteed.

The investment were not made in the public entities name, thus they had no ownership of the securities.

The money manager was trading in Treasury options, and not in Treasury securities.

The Kansas Statute reflecting broader investment options requires:

Public entity would directly invest in government securities

Ownership is with the government entity.

Investments in Treasury options are not allowed.

Only investments in government securities which are guaranteed are allowed.

There must be an in-house investment manager, must trade with a primary dealer. (Statute would not permit hiring outside money managers or financial advisors. In addition, proposed statute requires approval of investment policy by the Pooled Money Investment Board with annual reviews.)

Requires third party custodian

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PUBLIC FUNDS INVESTMENT

The conservative broadening of investment authority of public funds provides for the opportunity for governmental entities to raise revenues without raising taxes. It is the proper exercise of fiduciary responsibility to earn interest on public funds to benefit the taxpayers at every level, always within strict boundaries of safety on return of public funds. As proposed by the State Treasurer and recommended by the Legislative Budget Committee, the statute that will be prefiled broadens the investment authority of the investment of such public funds.

- 1) The public funds will only be invested in government securities if and when the banks decline the funds. Banks have first right of refusal on all funds available. Funds will be available on a continual basis all year long.

When a strong loan demand exists in Kansas the new statute with longer maturities at the government security market rate will create fair profit returns for the Kansas banks.

The primary role of the investment of public funds is investment, not to create economic development within the state of Kansas. Targeting specific economic development should be the role of elected officials (governor, legislators, local officials) to create special programs that can be monitored and accountable. Public funds should earn highest rate possible within safety guidelines which in turn can be returned to the taxpayers of Kansas through distribution of school finance, social services, special economic development programs, etc.

Currently the banks are investing 50 cents of every \$1.00 of Kansas consumer deposits in government securities purchased out of state. Investment of public funds by banks in government securities is probably much higher due to the current short term maturities of public funds.

- 2) Banks are required to collateralize governmental deposits at 100% of market value; otherwise the risk of investment would be equal to the higher risk investment such as unrated corporate paper. Some states require 120% collateral value.
- 3) A competitive bid process for all funds available for investment after a four-year transition period eliminates playing favorites. The funds go to the highest bidder with the market place and loan demand determining need rather than a formula that guarantees banks a favored position and which can also be restrictive curtailing the capacity to respond to marketplace needs for capital in Kansas.
- 4) Lengthening maturities responds both to the needs of Kansas banks as well as to the fiduciary responsibility of the State Treasurer. They do not create more interest rate risk or make additional income possible only in a declining interest rate market. Over a twenty year history (covering the gamut of interest rate ranges) the best earning maturities have been between two to five years. Most importantly, the banks can better use these longer term deposits under the more recent regulations. The two priorities of safety and liquidity are met with good cash management and cash flow as reflected in a variety of safe investments which are maturing constantly.

Investments of public funds

shall be made in accordance with written policies.

Such investment policies shall address:

safety of principal

liquidity

yield

diversification

maturity and quality

capability of investment management

Primary emphasis on safety and liquidity

Investments shall be made with judgment and care under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probably safety of their capital as well as the probably income to be

reading of such coupons on optical character reading equipment.

History: L. 1927, ch. 97, § 1; L. 1967, ch. 77, § 1; L. 1978, ch. 50, § 1; L. 1983, ch. 49, § 27; May 12.

10-127. Same; refusal by state treasurer to register. The state treasurer shall refuse to register any bonds, if any coupons attached thereto are not printed in accordance with K.S.A. 10-126, and amendments thereto. No municipality shall attach to any bond issued by such municipality interest coupons having different rates of interest, and the state treasurer shall refuse to register any bonds issued after the effective date of this act which do not comply with this requirement.

History: L. 1927, ch. 97, § 2; L. 1972, ch. 37, § 2; L. 1974, ch. 45, § 7; L. 1983, ch. 49, § 28; May 12.

10-129. Call of bonds before maturity; notice to state treasurer; paying agent and others; costs. (a) Whenever any municipality orders the call of any bonds issued by such municipality prior to the date of the maturity of such bonds, it shall be the duty of the clerk or secretary of such municipality to notify:

(1) The state treasurer and paying agent of such call by mailing to the state treasurer and paying agent, by certified mail, at least 30 days prior to the date fixed for the call of such bonds, a copy of the order, resolution or ordinance calling such bonds; and

(2) cause the paying agent to notify each presenter of interest coupons or owner of registered bonds that a call has been made as follows:

(A) if the bonds are bearer bonds, each person who last received an interest payment on any such bonds prior to the date fixed for notification of the call of such bonds if the address of such person is known, by mailing to such person, at the last known address thereof, a copy of the order, resolution or ordinance calling such bonds; or

(B) if the bonds are registered, each registered owner of such bonds, or the duly authorized agent thereof, by mailing to such person or authorized agent, at the last known address of such owner or agent, a copy of the order, resolution or ordinance calling such bonds.

(b) Costs associated with the foregoing provisions shall be paid by the municipality ordering the call of such bonds.

History: L. 1941, ch. 101, § 2; L. 1987, ch. 59, § 1; July 1.

10-130. Redemption of bonds and payment of interest thereon; duties of treasurers; requests for money to county treasurers; failure to pay bond moneys; penalty. (a) The treasurer of each municipality shall remit to the state fiscal agent at least 20 days before the day of maturity of any bonds or the interest thereon, payable at the office of the state treasurer as fiscal agent, sufficient moneys for the redemption of such bonds and the payment of the interest thereon. The treasurer of any municipality, in lieu of remitting such moneys to the state fiscal agent at such time, may provide the state fiscal agent with a certificate of a state or national bank or state or federally chartered savings and loan association that there are on deposit in such bank or savings and loan association, held in trust for such state fiscal agent, funds in the form of cash or securities of the United States government, sufficient for the redemption of such bonds or the payment of the interest thereon, and that such funds will reach the office of the state fiscal agent on or before twelve o'clock noon of the third working day before the day of maturity of such bonds or the interest thereon. Upon receipt of such certificate, the state fiscal agent shall file the same in the office of the state fiscal agent.

(b) When a municipality needs moneys that are in the county treasury to redeem any bonds or to pay the interest thereon, the treasurer of such municipality shall make a written request of the county treasurer for the amount needed not later than 25 days prior to the maturity date of the bonds or the interest thereon. Not later than two days following the receipt of such request the county treasurer shall forward to the treasurer of the municipality the amount requested, if the county treasurer has collected the same for such purpose. If the full amount of such a request is not in the county treasury, the county treasurer shall forward that portion that is in the county treasurer's possession for such purpose.

(c) When a county treasurer is charged with the collection of tax moneys for a municipality, the territory of which is in more than one county, such treasurer shall forward any such funds when collected to the proper county treasurer as soon as practical, or not later than two days following receipt of a request from the county treasurer to whom they are to be forwarded.

forever barred from asserting such Claims against the Debtors, the Reorganized Bankers or any of their respective property.

b. Priority Tax Claims. The Debtors are not aware of, and do not believe there are any, Priority Tax Claims due or owing to any taxing agencies. Therefore, this Plan does not provide for treatment of this Class of Claims.

Classified Claims

A. Secured Claims.

The Plan classifies secured Claims (which may include leases that are treated as secured transactions) into the following two Classes:

4.1. Class 1 (Claims of Lessors). Class 1 consists of all other Claims of Lessors against either of the Debtors. that are not included in Administrative Claims. Class 1 is not impaired under this Plan. Pursuant to this Plan, each Allowed Claim in Class 1 shall be treated under Option A or Option B below, at the election of the Debtors-in-Possession or the Reorganized Bankers:

Option A: Transfer of the subject collateral to the holder of such Claim in full satisfaction of the secured Claim; or

Option B: Curing of any defaults (other than a default of a kind specified in Section 365(b)(2) of the Bankruptcy Code) and reinstatement of the Claim;

Subject to such limitation, the pertinent Debtor-in-Possession shall be deemed to have elected Option B except with respect to any secured Claim as to which the Debtor-in-Possession elects Option A in writing prior to the Effective Date. The Debtors are aware of no defaults in payments or arrears owing to any Lessor.

4.2. Class 2 (Wrap Mortgages). Class 2 consists of Wrap Mortgages on property in which the Debtors hold a second mortgage. Class 2 is not impaired under this Plan. Pursuant to this Plan, each Allowed Claim in Class 2 shall continue to receive its mortgage payment in accordance with the Debtors' obligation to collect from their Borrowers and remit to the Senior mortgage holder the sums due under the terms of the Senior mortgage holder's note and mortgage.

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B. Priority Unsecured Claims.

4.3. Class 3 (Claims of Priority Unsecured Creditors).

Class 3 consists of unsecured Claims against either of the Debtors that are specified as having priority in Section 307(a)(3), (4), (3), or (6) of the Bankruptcy Code. Class 3 is not impaired under this Plan. Payment on a Class 3 Claim will not be made until such payment would have become due in the ordinary course of the subject Debtor's business or under the terms of the Claim in the absence of the Reorganization Cases.

C. Unsecured Claims Without Priority.

The Plan classifies non-priority, general, unsecured Claims into the following three (3) Classes.

4.4. Class 4 (Bankers Thrift and Loan Association and Universal Financial Services, Inc. - Unsecured Investment Certificate Holders - Unsecured Claims of \$2,000 or less, or which have been reduced to \$2,000).

Class 4 consists of unsecured Claims against either of the Debtors in the amount of \$2,000 or less, or which the holder timely elects to reduce to \$2,000 in full and complete satisfaction of his Claim by making such election on the enclosed ballot for accepting or rejecting this Plan and returning the ballot by the ___ day of _____, 1992, that would otherwise be classified in one or more of Classes 5 or 6, in the absence of the existence of Class 4. A holder of a Claim or Claims who would have been classified in one or more of such Classes, absent a timely election to reduce to \$2,000, may elect to reduce to \$2,000 only as to the aggregate of all such holders' Claims, and no Claim of any holder of a Claim that would have been classified in any of such Classes absent such election shall be classified in any of such Classes if the holder makes such election. Neither shall any Claimant who elects to reduce his Claim to \$2,000.00 have any recourse against any other party, including, but not limited to the KICGG Guaranty Fund, for any amounts in excess of \$2,000.00.

Class 4 is unimpaired under this Plan. Pursuant to this Plan each holder of an Allowed Claim in Class 4 shall receive from the Reorganized Bankers on account of such Claim, cash in the amount equal to 100% of such Claim within 30 days following the Effective Date (which amount which in no event shall exceed \$2,000 for any holder of a Class 4 Claim). Any holder of an Allowed Claim that would otherwise

have been classified in either of Classes 5 or 6 but for the timely election by the holder to reduce its Claim to \$2,000, shall receive no other distribution under this Plan on account of the Claim.

4.5. Class 5 (Bankers Thrift and Loan Association Unsecured Investment Certificate Holders - Unsecured Claims Greater than \$2,000.). The members of this Class shall receive, over time, the full face amount of their Claims as those Claims existed on the Filing Date of the Petition. Class 5 Unsecured Investment Certificate Holders of Bankers are impaired. Any member of Class 5 may elect to become a member of Class 4 (Allowed Small Unsecured Claims).

Those creditors of Class 5 who do not elect to become members of Class 4 will be paid in the following manner:

- (i) 30% of the allowed Class 5 Claims will be paid within thirty (30) days from the Effective Date of this Plan;
- (ii) Class 5 Claimants shall be issued promissory notes equal in amount to 48.4% of each Claimant's allowed Class 5 Claims. The promissory notes will be paid in equal semi-annual installments over six years. Interest will be paid at the rate of 5 1/2% per annum simple interest on the unpaid (decreasing) balance. Payments will be based on an eight year amortization rate with a balloon of all unpaid principal and interest at the end of the sixth anniversary of the Effective Date;
- (iii) Each holder of an Allowed Class 5 Claim shall be issued, within sixty (60) days after the Date of Confirmation, one (1) share of \$1.00 par value Preferred Stock of the Reorganized Bankers (the "Preferred Stock") for each \$1.00 of the Claimant's remaining Allowed Class 5 Claim up to an amount not to exceed 10.1% of each Claimant's Allowed Class 5 Claim. No fractional shares shall be issued in computing the amount of shares to which each holder shall be entitled. Amounts shall be rounded to the nearest \$1.00.

The preferred stockholders will be entitled to the following rights and preferences:

- (A) The holders of the Preferred Stock shall be entitled, as a Class, to elect one member of the Reorganized Bankers' Board of Directors;

- (B) The holders of the Preferred Stock shall share pro-rata with Class 6 in any dividends declared and paid. No dividend may be paid on common stock until all Preferred Stock is redeemed.
- (C) The Preferred Stock will be redeemed in full at par value at the earlier of: (a) prior to the distribution of any sums to holders of common stock pursuant to a plan of full or partial liquidation. For this purpose, a "plan of full or partial liquidation" is a plan adopted by the Board of Directors and approved by all Classes of shareholders calling for the discontinuance of the active trade or business of the corporation and the distribution to shareholders of property or proceeds employed in such discontinued trade or business; or (b) the sixth anniversary of the Effective Date of this Plan, at which time the Preferred Stock is subject to mandatory redemption.
- (D) The Preferred Stock is subject to optional redemption, at full par value, by the Reorganized Bankers at any time prior to the sixth anniversary of the Effective Date.
- (E) The Preferred Stock certificates issued in connection with this Plan will not be registered under the Securities Act of 1933 and such shares can be sold or offered for sale only pursuant to registration or exemption therefrom. Each Preferred Stock certificate will be imprinted with the following legend:

"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. §1145 under an order confirming a Plan of Reorganization in a case entitled Bankers Thrift & Loan Association, Debtor, Case No. 91-21309-11, in the United States Bankruptcy Court for the District

of Kansas. The holder of this certificate is referred to 11 U.S.C. §1145(b) and (c) for guidance in the sale of these securities."

4.6. Class 6 (Universal Financial Services, Inc. Unsecured Investment Certificate Holders - Unsecured Claims Greater than \$2,000). The members of this Class shall receive, over time, the full face amount of their Claims as those Claims existed on the Filing Date of the Petition. Class 6 Unsecured Investment Certificate Holders of Universal are impaired. Any member of Class 6 may elect to become a member of Class 4 (Allowed Small Unsecured Claims).

Those creditors of Class 6 who do not elect to become members of Class 4 will be paid in the following manner:

- (i) 30% of the allowed Class 6 Claims will be paid within thirty (30) days from the Effective Date of this Plan;
- (ii) Class 6 Claimants shall be issued promissory notes equal in amount to 48.4% of each Claimant's allowed Class 6 Claims. The promissory notes will be paid in equal semi-annual installments over six years. Interest will be paid at the rate of 5 1/2% per annum simple interest on the unpaid (decreasing) balance. Payments will be based on an eight year amortization rate with a balloon of all unpaid principal and interest at the end of the sixth anniversary of the Effective Date;
- (iii) Each holder of an Allowed Class 6 Claim shall be issued, within sixty (60) days after the Date of Confirmation, one (1) share of \$1.00 par value Preferred Stock of the Reorganized Bankers (the "Preferred Stock") for each \$1.00 of the Claimant's remaining Allowed Class 6 Claim up to an amount not to exceed 10.1% of each Claimant's Allowed Class 6 Claim. No fractional shares shall be issued in computing the amount of shares to which each holder shall be entitled. Amounts shall be rounded to the nearest \$1.00.

The preferred stockholders will be entitled to the following rights and preferences:

- (A) The holders of the Preferred Stock shall be entitled, as a Class, to elect one member of the Reorganized Bankers' Board of Directors;

- (B) The holders of the Preferred Stock shall share pro-rata with Class 5 in any dividends declared and paid. No dividend may be paid on common stock until all Preferred Stock is redeemed.
- (C) The Preferred Stock will be redeemed in full at par value at the earlier of: (a) prior to the distribution of any sums to holders of common stock pursuant to a plan of full or partial liquidation. For this purpose, a "plan of full or partial liquidation" is a plan adopted by the Board of Directors and approved by all Classes of shareholders calling for the discontinuance of the active trade or business of the corporation and the distribution to shareholders of property or proceeds employed in such discontinued trade or business; or (b) the sixth anniversary of the Effective Date of this Plan, at which time the Preferred Stock is subject to mandatory redemption.
- (D) The Preferred Stock is subject to optional redemption, at full par value, by the Reorganized Bankers at any time prior to the sixth anniversary of the Effective Date.
- (E) The Preferred Stock certificates issued in connection with this Plan will not be registered under the Securities Act of 1933 and such shares can be sold or offered for sale only pursuant to registration or exemption therefrom. Each Preferred Stock certificate will be imprinted with the following legend:

"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. §1145 under an order confirming a Plan of Reorganization in a case entitled Universal Financial Services, Inc., Debtor, Case No. 91-21310-11, in the United States Bankruptcy Court for the District of Kansas. The holder of this

certificate is referred to 11 U.S.C. §1145(b) and (c) for guidance in the sale of these securities."

D. *Subordinated Debenture Holders of Bankers Thrift and Loan Association.*

4.7. Class 7 (Holders of Subordinated Debentures of Bankers Thrift and Loan Association). Class 7 consists of the holders and owners of the Subordinated Debentures of Bankers Thrift and Loan Association. The interests of this Class are subordinated to the Claims of other unsecured creditors and the investment certificate holders. The members of this Class shall not be entitled to receive a distribution under this Plan until all Claimants in Classes 1 through 6, inclusive, have been paid in full.

The members of this Class 7 shall be paid in the following manner:

- (i) Each holder of an Allowed Class 7 Claim shall be issued, within sixty (60) days after the Date of Confirmation, one (1) share of \$1.00 par value Preferred Stock of the Reorganized Bankers (the "Preferred Stock") for each \$1.00 of the Claimant's remaining Allowed Class 7 Claim. No fractional shares shall be issued in computing the amount of shares to which each holder shall be entitled. Amounts shall be rounded to the nearest \$1.00.

The preferred stockholders will be entitled to the following rights and preferences:

- (A) The Preferred Stock will be redeemed in full at par value at the earlier of: (a) prior to the distribution of any sums to holders of common stock pursuant to a plan of full or partial liquidation. For this purpose, a "plan of full or partial liquidation" is a plan adopted by the Board of Directors and approved by all Classes of shareholders calling for the discontinuance of the active trade or business of the corporation and the distribution to shareholders of property or proceeds employed in such discontinued trade or business; (b) subsequent to the distribution of all sums due under this Plan

to holders of other unsecured debt and to the holders of investment certificates; or (c) the sixth anniversary of the Effective Date of this Plan, at which time the Preferred Stock is subject to mandatory redemption.

- (B) The Preferred Stock is subject to optional redemption, at full par value, by the Reorganized Bankers at any time prior to the sixth anniversary of the Effective Date; however no redemption shall occur until and unless the Preferred Stock issued to Classes 5 and 6 have been fully redeemed pursuant to the terms of this Plan.
- (C) The Preferred Stock certificates issued in connection with this Plan will not be registered under the Securities Act of 1933 and such shares can be sold or offered for sale only pursuant to registration or exemption therefrom. Each Preferred Stock certificate will be imprinted with the following legend:

"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. §1145 under an order confirming a Plan of Reorganization in a case entitled Bankers Thrift and Loan Association, Debtor, Case No. 91-21309-11, in the United States Bankruptcy Court for the District

of Kansas. The holder of this certificate is referred to 11 U.S.C. §1145(b) and (c) for guidance in the sale of these securities."

E. *Allowed Interests of Bankers Thrift and Loan Association.*

4.8. Class 8 (Equity Holders of Bankers Thrift and Loan Association). Class 8 consists of the holders and owners of all of the outstanding and issued capital stock of Bankers Thrift and Loan Association. Members of this Class shall retain their interests; however the Confirmation Order shall preclude the holders of equity interests in the Debtor from taking any action or exercising any right attendant to such interest which in any manner is inconsistent with or contrary to the provisions of this Plan. This Class is impaired under this Plan.

F. *Allowed Interests of Universal Financial Services, Inc.*

4.9. Class 9 (Equity Holders of Universal Financial Services, Inc.). Class 9 consists of the holders of all of the outstanding and issued common stock of Universal Financial Services, Inc. Pursuant to this Plan, all existing common stock of Universal Financial Services, Inc. will be merged with and into the Reorganized Bankers. Class 9 is impaired under this Plan.

Article 5

MEANS FOR EXECUTION AND IMPLEMENTATION OF THIS PLAN

5.1. CORPORATE AND FINANCIAL RESTRUCTURING AND MERGERS.

On The Effective Date:

A. All Existing Securities, all existing warrants and all other rights to acquire existing Common Stock of Bankers Thrift and Loan Association and/or Universal Financial Services, Inc. shall be deemed canceled and of no further force or effect, without any further action on the part of any entity.

B. Upon the filing of a Certificate of Merger with all applicable governmental authorities, including, but not limited to, the Kansas Secretary of State, Universal Financial Services, Inc. will be merged into Bankers Thrift and Loan Association pursuant to the terms of the Merger Agreement. The Reorganized Bankers will become the surviving entity without any further action being required to effect such Merger. Pursuant to the Merger, the separate corporate existence of Universal Financial Services, Inc., the merging subsidiary, shall cease. The Reorganized Bankers shall retain the right to merge, consolidate, dissolve or take any other corporate action in accordance with applicable non-bankruptcy law at any time on or after the Effective Date.

5.2. FUNDING OF PLAN.

Funds required to make the payments required by this Plan shall be provided from funds of each of the Debtors' estates, from the funds generated by the operations of the Reorganized Bankers, from funds currently held by the KICGC and from any funds to be borrowed under the terms of any credit agreement.

5.3. REVESTING OF ASSETS.

Except as otherwise provided in any provision of this Plan: (i) on the Effective Date all property of the Estates of each Debtor, including the property of the Merging Subsidiary, Universal Financial Services, Inc., shall vest in the Reorganized Bankers; (ii) from and after the Effective Date, the Reorganized Bankers may use, acquire and dispose of property without supervi-

sion by the Bankruptcy Court free of any restriction of the Bankruptcy Code, other than those restrictions expressly imposed by this Plan and the Confirmation Order.

5.4. MATTERS REGARDING CHARTERS OF REORGANIZED DEBTORS.

On the Effective Date:

1. The Reorganized Bankers shall adopt the Amended Bankers Bylaws pursuant to Section 1123(a)(5)(I) of the Bankruptcy Code. The Amended Bankers Certificate and Bylaws shall contain provisions which will, among other provisions: (i) authorize the issuance of New Bankers Preferred Stock; (ii) prohibit the issuance of non-voting equity securities to the extent required by Section 1123(a)(6) of the Bankruptcy Code; and (iii) provide that the first regular annual meeting of the shareholders of the Reorganized Bankers following the Effective Date shall take place on a date designated by the Board of Directors of the Reorganized Bankers which date shall occur no later than three (3) months following the Effective Date.

5.5. DISTRIBUTION OF CONSIDERATION.

A. *Disbursing Agent.*

The Reorganized Bankers and any other entity or entities as may be approved by the Bankruptcy Court such as an Indenture Trustee or Stock Transfer Agent, shall act as a Disbursing Agent under this Plan. Any such Disbursing Agent may employ or contract with other entities to assist in or to perform the required

THE STATE OF KANSAS

HB 2451
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OFFICE OF *Consumer Credit Commissioner*

JOAN FINNEY
Governor

WM. F. CATON
Commissioner

January 16, 1992

HOUSE COMMITTEE COMMERCIAL & FINANCIAL INSTITUTIONS

REQUESTS FROM CONSUMER CREDIT COMMISSIONER:

1. Change KSA 16a-6-104(4) to include Written Administrative Interpretation and add definition to 16a-1-301.

This change would protect lenders from penalties only if they act in good faith on written directives from the administrator. This does not provide any relief from overcharges if the directive is amended or overruled.

2. Amend UCCC to include new section for short term non-renewable loans.

This new section would allow for rates on small, short term loans. "Payday loans", in which a consumer "pawn" a personal check to be deposited by the lender at a specified date to repay the loan, and Tax Refund Anticipation Loans may use this section to provide these services to consumers with rates that are reasonable both to the lender and consumer.

3. Delete reference to the Kansas Investment Certificate Guarantee Fund Act in the Kansas Investment Certificate Fund Act.

With the only surviving Investment Certificate Company in Chapter 11 Bankruptcy, it is in the best interest of the people of the State of Kansas to continue to allow present or new Investment Certificate Companies to operate, but discontinue any provision for a guarantee fund. Once this final corporation's bankruptcy is resolved, the Guarantee Fund Act should be repealed in its entirety.

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THE STATE OF KANSAS



JOAN FINNEY
Governor

OFFICE OF

Consumer Credit Commissioner

WM. F. CATON
Commissioner

PROPOSED CHANGES IN KSA 16a-6-104 (4)

(4) Except for refund of an excess charge, no liability is imposed under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amendatory thereof, for an act done or omitted in conformity with a rule OR WRITTEN ADMINISTRATIVE INTERPRETATION of the administrator notwithstanding that after the act or omission the rule OR ADMINISTRATIVE INTERPRETATION may be amended or repealed or be determined by judicial or other authority to be invalid for any reason.

The need for this change is brought about by recent court action in other states that has possibly set precedence by assessment of penalties on a financial institution that correctly followed written administrative interpretations of an administrator that subsequently were reversed by the court.

The administrator does not and should not make law or regulation. However, the administrator is required to interpret the law or regulation when the public has questions that may or may not be clear in the law or regulation. If the public act in good faith on these interpretations, it should be deemed proper whether it is correct or not.

This change does not give the administrator any more authority than he has now. It merely disallows a penalty if the administrator's interpretation is overturned by a new administrator, the legislative process, or court action. Any and all proper refunds of overcharges would still be applicable. Nor does this change add weight to the interpretation.

An entity should not be penalized when acting in good faith upon rules or interpretations of an administrator charged with upholding a certain set of laws and regulations.

Again, the ONLY limitation this change creates is that PENALTIES will not be levied on someone who has acted properly at the direction of the administrator. With the current judicial atmosphere, this change is needed to avoid unjust penalties.

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DEFINITION TO BE ADDED TO 16a-1-301

(41) "Written Administrative Interpretation" means any written communication from the Consumer Credit Commissioner which is the official staff interpretation of the Kansas Uniform Consumer Credit Code and Regulations pertaining thereto. Good faith compliance with a written administrative interpretation affords protection from penalties prescribed in 16a-5-201 for any act done or omitted in conformity with the interpretation. Written Administrative Interpretations may be revised or overruled by a succeeding Commissioner, a Court of Law, Regulation or Legislation.

SHORT TERM NON RENEWABLE LOANS

BACKGROUND

There are two relatively new financial services in the finance industry that are small, extremely short term loan contracts. Kansas usury laws were developed before the concept of these services.

Our usury laws were originally based on the concept that the contract interest rate be expressed in an annual percentage rate and a ceiling was placed on this contract interest rate. Later, a minimum finance charge and non-refundable prepaid finance charge were approved to allow lenders to recover administrative costs directly related to the extension of credit. However, these changes did not address the special considerations of these two new financial services.

One of the new financial services is a Tax Refund Anticipation Loan. If specific criteria are met, taxpayers can obtain a loan against this refund. With the technological advance of electronic tax filing, these loans may last only 14 to 18 days. This service is extremely popular with the public and presently several states have made changes in usury laws to provide the lender a fee which is both profitable and sensible.

The other new financial service is a small, short term loan to a debtor who promises to pay the loan back "next payday". Usually, the debtor gives the lender a bank check that the lender agrees to hold for deposit until the debtor has sufficient funds to cover the check. Thus, this service is nicknamed "Payday Loans".

Both of these new financial services realistically are 5 to 25 day loans. Both require fees higher than Kansas Usury Laws permit to be profitable to the lender. In the case of the Refund Anticipation Loan, the administrative costs are high due to required exchange of information with the lender, borrower, and IRS but has a small risk factor. The payday loan does not have high administrative costs, but has an extremely high risk exposure; probably even more than a pawn shop who is allowed by law to charge 10% per month up to \$5,000.

The annual percentage rate on small, short term loans does not realistically reflect the cost of borrowing. The fees allowed under the small loan program are realistic and moral related to the cost of the debt and the administrative costs and risk factors involved.

Kansas consumers may obtain these services from out-of-state lenders that come under the jurisdiction of other State's laws. This is not healthy for the Kansas economy.

SHORT TERM NON RENEWABLE LOANS

CONSUMER BENEFITS

1. Money will be available to those who need it from Kansas creditors and fulfills the purposes set forth in 16a-1-102.
2. In reference to the "payday loan" application, it could possibly save the consumer a substantial amount of bank overdraft or return check charges plus third party collection fees if the bank does not honor the checks.
3. The charges are reasonable for the services rendered.
4. An IMMEDIATE source of funds are provided to consumers who have immediate or emergency needs that their daily budget cannot provide.

CREDIT INDUSTRY BENEFITS

1. Provides reasonable return for cost of money, administrative expenses and risk factors.
2. Is relatively simple to understand and initiate
3. Will aid the regulated credit industry with compliance of federal Community Reinvestment Act.
4. Expands services provided to customers.

REGULATORY BENEFITS

1. Provides rules for credit services demanded by consumers but not presently addressed by the code.
2. Compliance will be easily ascertained due to the simplicity of the plan.
3. Will promote high industry standards through aggressive investigation of new licensees and compliance examinations.

Short Term Non Renewable Loans

Short term non-renewable loans may be made by a supervised lender.

Maximum term of loan may not exceed 30 days. Lender must reasonably ascertain that the borrower has the ability to repay the loan in full at maturity of the loan.

The maximum amount of the loan may not be greater than the amount for which a creditor may contract for and receive a finance charge at a rate of thirty-six percent per year as authorized by K.S.A. 16a-2-401(2).

An administrative fee in the amount of \$5.00 may be charged in addition to a finance charge calculated according to the actuarial method not exceeding the equivalent of the greater of either of the following:

\$0	to	\$100.00	10% of loan proceeds
\$100.01	to	\$250.00	7% of loan proceeds with \$10.00 min
\$250.01	to	Maximum	6% of loan proceeds with \$17.50 min

If the loan proceeds are paid by a check or draft, no charge may be made by the creditor for cashing the check or draft.

No refund of the finance charge need be made if paid in full within one month.

The loan may not be paid by a renewal loan at a rate higher than permitted by K.S.A. 16a-2-401(2).

After the maturity date, a rate of charge not exceeding 3% per month may be charged on unpaid balances.

On a consumer transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged if the check is deemed insufficient as defined in K.S.A. 16a-2-501(2)(e)(i through iv).

An act concerning the Uniform Consumer Credit Code; loan finance charges for certain loans.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (1) On consumer transactions in which cash is advanced with a short term, single payment repayment anticipated, and the cash advance is equal to or less than the maximum amount of the first tier used in the blended alternative rate in K.S.A. 16a-2-401(2)(a) and adjusted in K.S.A. 16a-2-401a, a licensed or supervised lender may charge in lieu of the loan finance charges specified in K.S.A. 16a-2-401 and amendments thereto the following amounts:

(a) On any amount up to and including \$100, a charge may be added equal to 10% of the loan proceeds plus a \$5.00 administrative fee;

(b) On amounts in excess of \$100, but not more than \$250 a charge may be added equal to 7% of the loan proceeds with a minimum of \$10.00 plus a \$5.00 administrative fee;

(c) for amounts in excess of \$250 and not greater than the maximum defined in this section, a charge may be added equal to 6% of the loan proceeds with a minimum of \$17.50 plus a \$5.00 administrative fee.

(2) The maximum term of any loan made under the terms of this section shall be 30 days.

(3) The contract rate of any loan made under the terms of this section shall not be more than 3% per month of the loan proceeds after the maturity date. No insurance charges or any other charges of any nature whatsoever shall be permitted, except as stated in section (6) below, including any charges for cashing the loan proceeds if they are given in check form.

(4) Any loan made under the terms of this section shall not be repaid by proceeds of another loan made under the terms of this section by the same lender or related interest.

(5) On a consumer transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged if the check is deemed insufficient as defined in K.S.A. 16a-2-501(2)(e)(i through iv).

(6) In applying the provisions of this act on unconscionability (sections 16a-5-108 and 16a-6-111) to this section, consideration shall be given, among other factors, to:

(a) the repayment ability of the borrower is within the terms of loans made under this section.

(b) original requests of the borrower for amount and term of the loan are within the limitations under this section.

(7) This section shall be supplemental to and a part of the Uniform Consumer Credit Code.

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

SHORT TERM NON RENEWABLE LOANS

AMOUNT	FIN CHG	ADM FEE	TOT CHG	TOTAL LOAN	APR
\$25.00	\$2.50	\$5.00	\$7.50	\$32.50	360.00%
\$50.00	\$5.00	\$5.00	\$10.00	\$60.00	240.00%
\$75.00	\$7.50	\$5.00	\$12.50	\$87.50	200.00%
\$100.00	\$10.00	\$5.00	\$15.00	\$115.00	180.00%
\$125.00	\$10.00	\$5.00	\$15.00	\$140.00	144.00%
\$150.00	\$10.50	\$5.00	\$15.50	\$165.50	124.00%
\$175.00	\$12.25	\$5.00	\$17.25	\$192.25	118.29%
\$200.00	\$14.00	\$5.00	\$19.00	\$219.00	114.00%
\$225.00	\$15.75	\$5.00	\$20.75	\$245.75	110.67%
\$250.00	\$17.50	\$5.00	\$22.50	\$272.50	108.00%
\$275.00	\$17.50	\$5.00	\$22.50	\$297.50	98.18%
\$300.00	\$18.00	\$5.00	\$23.00	\$323.00	92.00%
\$325.00	\$19.50	\$5.00	\$24.50	\$349.50	90.46%
\$350.00	\$21.00	\$5.00	\$26.00	\$376.00	89.14%
\$375.00	\$22.50	\$5.00	\$27.50	\$402.50	88.00%
\$400.00	\$24.00	\$5.00	\$29.00	\$429.00	87.00%
\$425.00	\$25.50	\$5.00	\$30.50	\$455.50	86.12%
\$450.00	\$27.00	\$5.00	\$32.00	\$482.00	85.33%
\$475.00	\$28.50	\$5.00	\$33.50	\$508.50	84.63%
\$500.00	\$30.00	\$5.00	\$35.00	\$535.00	84.00%
\$525.00	\$31.50	\$5.00	\$36.50	\$561.50	83.43%
\$550.00	\$33.00	\$5.00	\$38.00	\$588.00	82.91%
\$575.00	\$34.50	\$5.00	\$39.50	\$614.50	82.43%
\$600.00	\$36.00	\$5.00	\$41.00	\$641.00	82.00%
\$625.00	\$37.50	\$5.00	\$42.50	\$667.50	81.60%
\$650.00	\$39.00	\$5.00	\$44.00	\$694.00	81.23%
\$675.00	\$40.50	\$5.00	\$45.50	\$720.50	80.89%
\$700.00	\$42.00	\$5.00	\$47.00	\$747.00	80.57%
\$725.00	\$43.50	\$5.00	\$48.50	\$773.50	80.28%
\$750.00	\$45.00	\$5.00	\$50.00	\$800.00	80.00%
\$775.00	\$46.50	\$5.00	\$51.50	\$826.50	79.74%
\$780.00	\$46.80	\$5.00	\$51.80	\$831.80	79.69%

ADMINISTRATIVE FEE: \$5.00 PER LOAN REGARDLESS OF SIZE

0 TO \$100 - 10% OF LOAN PROCEEDS
 \$101 TO \$250 - 7% OF LOAN PROCEEDS WITH \$10.00 MIN
 \$251 TO MAXIMUM - 6% OF LOAN PROCEEDS WITH \$17.50 MIN

MAXIMUM EQUALS SAME AS MAXIMUM YOU CAN CHARGE 36%

IF LOAN HAS TO BE EXTENDED OR RENEWED, 3% PER MONTH

PRESENT MAXIMUM CHARGES UNDER CODE

AMOUNT	INTEREST 2%	PREPAID	TOTAL FIN CHG	TOTAL LOAN	APR
\$25.00	\$5.00	\$0.50	\$5.50	\$30.50	264.00%
\$50.00	\$5.00	\$1.00	\$6.00	\$56.00	144.00%
\$75.00	\$5.00	\$1.50	\$6.50	\$81.50	104.00%
\$100.00	\$7.50	\$2.00	\$9.50	\$109.50	114.00%
\$125.00	\$7.50	\$2.50	\$10.00	\$135.00	96.00%
\$150.00	\$7.50	\$3.00	\$10.50	\$160.50	84.00%
\$175.00	\$7.50	\$3.50	\$11.00	\$186.00	75.43%
\$200.00	\$7.50	\$4.00	\$11.50	\$211.50	69.00%
\$225.00	\$7.50	\$4.50	\$12.00	\$237.00	64.00%
\$250.00	\$7.50	\$5.00	\$12.50	\$262.50	60.00%
\$275.00	\$8.25	\$5.50	\$13.75	\$288.75	60.00%
\$300.00	\$9.00	\$6.00	\$15.00	\$315.00	60.00%
\$325.00	\$9.75	\$6.50	\$16.25	\$341.25	60.00%
\$350.00	\$10.50	\$7.00	\$17.50	\$367.50	60.00%
\$375.00	\$11.25	\$7.50	\$18.75	\$393.75	60.00%
\$400.00	\$12.00	\$8.00	\$20.00	\$420.00	60.00%
\$425.00	\$12.75	\$8.50	\$21.25	\$446.25	60.00%
\$450.00	\$13.50	\$9.00	\$22.50	\$472.50	60.00%
\$475.00	\$14.25	\$9.50	\$23.75	\$498.75	60.00%
\$500.00	\$15.00	\$10.00	\$25.00	\$525.00	60.00%
\$525.00	\$15.75	\$10.50	\$26.25	\$551.25	60.00%
\$550.00	\$16.50	\$11.00	\$27.50	\$577.50	60.00%
\$575.00	\$17.25	\$11.50	\$28.75	\$603.75	60.00%
\$600.00	\$18.00	\$12.00	\$30.00	\$630.00	60.00%
\$625.00	\$18.75	\$12.50	\$31.25	\$656.25	60.00%
\$650.00	\$19.50	\$13.00	\$32.50	\$682.50	60.00%
\$675.00	\$20.25	\$13.50	\$33.75	\$708.75	60.00%
\$700.00	\$21.00	\$14.00	\$35.00	\$735.00	60.00%
\$725.00	\$21.75	\$14.50	\$36.25	\$761.25	60.00%
\$750.00	\$22.50	\$15.00	\$37.50	\$787.50	60.00%
\$775.00	\$23.25	\$15.50	\$38.75	\$813.75	60.00%
\$780.00	\$23.40	\$15.60	\$39.00	\$819.00	60.00%

MAXIMUM LOAN RATES UNDER PRESENT CODE ASSUMING BASE = \$780
 MIN CHG = \$5.00 ON \$75 OR LESS AND \$7.50 ON OVER \$75

Repeal 16-601(2)(i) investment certificates authorized hereunder shall have printed thereon the words: "Funds in investment certificates owned by a single investor are protected up to an aggregate maximum of \$10,000 by the Kansas investment certificate guaranty fund corporation, a private corporation which is not an agency of the state of Kansas or of the federal government".

Repeal 16-601p. Same; company membership in guaranty fund corporation. Every investment company shall become a member of the Kansas investment certificate guaranty fund corporation and qualify as a member before the issuance of any investment certificates.

Strike 16-601r. and the investment certificate guaranty fund corporation

Strike 16-601s. and the investment certificate guaranty fund corporation

Strike 16-619 appointment of the guaranty fund corporation as receiver

Repeal 16-619(b) In such a liquidation, the commissioner shall designate the Kansas investment certificate guaranty fund corporation as the receiver to liquidate the company or to place the company on a sound fiscal basis. In such capacity the guaranty corporation shall have all of the powers of a receiver as provided by subsection (a) herein.

(b) proceeds under section 84-9-306 if the secured party has a security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection 7).

(3) The secretary of state shall prescribe a form substantially as follows to comply with subsection (1):

Name of debtor (or assignor) _____

Address _____

Name of secured party (or assignee) _____

Address _____

1. This financing statement covers the following types (or items) of property:

(Describe) _____

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate) _____

3. If applicable, the above (goods are to become fixtures on:) (timber is standing on:) (minerals or the like, including oil and gas, or accounts will be financed at the wellhead or minehead of the well or mine located on:)

(Legal description of real estate) _____

(Name of record owner) _____

4. (If products of collateral are claimed) Products of the collateral are also covered.

(use whichever is applicable)

Signature of debtor (or assignor) _____

Signature of secured party (or assignee) _____

(4) ~~A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments thereto.~~

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 84-9-103; or a financing statement filed as a fixture filing (section 84-9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must contain a legal description of the real estate concerned and the name of the record owner of the real estate concerned.

Federal employee identification number (FEIN) _____; or
Social security number _____

A financing statement may be amended by filing a writing signed by the secured party except that if any amendment changes the classification or the value of collateral, the amendment must be signed by both the debtor and the secured party.
The federal employee identification number (FEIN) or social security number of the debtor must be shown on any amendment filed according to K.S.A. 84-9-401(1)(c) and amendments thereto.

_____ and amendments thereto,
_____ and amendments thereto

CF&I
1-16-92
Atch #5

16a. 1. (UCCC) Additional charges.

(1) In addition to the finance charge permitted by the parts of this article on maximum finance charges for consumer credit sales and consumer loans (parts 2 and 4), a creditor may contract for and receive the following additional charges in connection with a consumer credit transaction:

(a) Official fees and taxes;

(b) charges for insurance as described in subsection (2);

(c) annual fees payable in advance or monthly fees, delinquency charges, insufficient check charges as provided in paragraph (e) of this subsection, over-limit fees and cash advance fees, for the privilege of using a lender credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the lender credit card, under an arrangement pursuant to which the debts resulting from the purchases are payable to the issuer;

(d) charges for other benefits, including insurance, conferred on the consumer, if the benefits are of value to the consumer and if the charges are reasonable in relation to the benefits, are of a type which is not for credit, and are excluded as permissible additional charges from the finance charge by rules and regulations adopted by the administrator;

(e) a service charge for an insufficient check as defined and authorized by this subsection:

(i) For the purposes of this subsection, "insufficient check" means any check, order or draft drawn on any bank, credit union, savings and loan association, or other financial institution for the payment of money and delivered in payment, in whole or in part, of preexisting indebtedness of the drawer or

(d) a participation fee charged by a supervised financial organization on a monthly, annual or other periodic basis in connection with an overdraft protection open-end credit line.