

Approved February 18, 1992  
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

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

3:30 ~~xxx~~ p.m. on February 13, 1992 in room 527-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

The Chairperson called the meeting to order at 3:30 P.M. and stated final action would be taken on bills previously heard.

The Chairperson asked staff to give a briefing on HB 2726.

The Revisor stated there were two technical amendments to HB 2726:

(1) On Page 13, line 11, "individual" should be changed to read "undivided earnings."

(2) On Page 15, line 41, change "and" to "an".

Representative Shallenburger moved and Representative Teagarden seconded the amendment to HB 2726 be adopted.

Representative Graeber moved and Representative Minor seconded that HB 2726 be moved out of committee favorably as amended. The motion carried.

The Chairperson asked staff for a briefing on HB 2744.

Representative Shallenburger moved and Representative Graeber seconded that HB 2744 be moved to the Consent Calendar. The motion carried.

The Chairperson then asked for final action on HB 2745.

Representative Kline moved and Representative Shallenburger seconded that HB 2745 be moved to the Consent Calendar. The motion carried.

The Chairperson asked for final action on HB 2750.

Representative Cates moved and Representative Watson seconded that HB 2750 be moved out of committee favorably as amended. The motion carried.

The Chairperson asked for final vote on HB 2810.

Representative Minor moved and Representative Graeber seconded to pass out HB 2810 to the Consent Calendar. The motion carried.

The Chairperson asked for final action on HB 2838.

Representative Shallenburger moved that HB 2838 be amended. (See Attachment #1).

The motion failed for lack of a second.

Representative King moved and Representative Graeber seconded that HB 2838 be moved out of Committee favorably. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL AND COMMERCIAL INSTITUTIONS  
room 527-S, Statehouse, at 3:30 ~~xx~~ p.m. on February 13, 1992

Representative King moved and Representative Cates seconded that HB 2842 be amended on Page 13, line 35, to change "30" to "35".

Representative Kline moved and Representative Cates seconded that HB 2842 be moved out favorably as amended. The motion carried.

The Chairperson stated that staff would provide a briefing on HBs 2133 and 2134 on Monday, February 17th and final action would be taken on Tuesday, February 18.

The Chairperson asked for final action on HB 2747.

Representative Graeber moved and Representative Minor seconded that HB 2747 be moved out and put on the Consent Calendar.

After discussion the motion was withdrawn.

The Chairperson asked for Final Action on HB 2746. Representative Wagle moved and Representative Grant seconded that HB 2746 be passed out favorably. The motion carried.

Representative Shallenburger voted "NO" on HB 2746.

The meeting adjourned at 4:15 P.M. and the next meeting will be Tuesday, February 18, 1992.

Date: 2/13/92

GUEST REGISTER

HOUSE

COMMERCIAL & FINANCIAL INSTITUTIONS COMMITTEE

NAME	ORGANIZATION	ADDRESS
Joe Hawkey	KSDCU	Topeka, Ka.
Wayne Warfel	"	" "
Kevi Leach	State Banking Department	Topeka
Frank D. Dunnick	State Banking Dept	Topeka
Judi Stork	Kansas Banking Dept	✓
Mel Patton	Consumer Credit	✓
Stan Lind	Ks. Assn. of Financial Services	KCKs
Bill Caton	Cons. C. Comm	Topeka
JEFF SONNICH	KNLSI	TOPEKA
Club Stan	KBA	"
Kathy Taylor	"	"
Jim Maag	"	"

# HOUSE BILL No. 2838

By Committee on Commercial and Financial Institutions

1-31

8 AN ACT amending the uniform consumer credit code; concerning  
 9 consumer leases; relating to delinquency charges; amending  
 10 K.S.A. 16a-2-502, 16a-3-201, 16a-6-105 and 16a-6-117 and re- K.S.A. 1991 supp. 16a-2-501 and  
 11 pealing the existing sections; also repealing K.S.A. 16a-2-511. 16a-2-507

12 *Be it enacted by the Legislature of the State of Kansas:* Insert A

13 ~~[Section 1.]~~ K.S.A. 16a-2-502 is hereby amended to read as fol- Sec. 2.

14  
15 lows: 16a-2-502. (1) The parties to a consumer credit transaction may  
16 contract for a delinquency charge on any installment not paid in full  
17 within 10 days after its scheduled or deferred due date in an amount  
18 not exceeding the greater of:

19 (a) An amount, not exceeding ~~5% of the unpaid amount of the~~ the actual and necessary fees and expenses  
20 ~~installment or \$25, whichever is less~~; or

21 (b) the deferral charge (section 16a-2-503) that would be per-  
22 mitted to defer the unpaid amount of the installment for the period  
23 that it is delinquent.

24 (2) A delinquency charge under paragraph (a) of subsection (1)  
25 may be collected only once on an installment however long it remains  
26 in default. No delinquency charge may be collected with respect to  
27 a deferred installment unless the installment is not paid in full within  
28 10 days after its deferred due date. A delinquency charge may be  
29 collected at the time it accrues or at any time thereafter.

30 (3) No delinquency charge may be collected on an installment  
31 which is paid in full within 10 days after its scheduled or deferred  
32 installment due date even though an earlier maturing installment or  
33 a delinquency charge on an earlier installment may not have been  
34 paid in full.

35 (4) *If two installments or parts thereof of a precomputed con-*  
36 *sumer loan are in default for 10 days or more, the lender may elect*  
37 *to convert the loan from a precomputed loan to one in which the*  
38 *finance charge is based on unpaid balances. In this event the lender*  
39 *shall make a rebate pursuant to the provisions on rebate upon pre-*  
40 *payment (section 16a-2-510) as of the maturity date of the first*  
41 *delinquent installment, and thereafter may make a finance charge*  
42 *as authorized by the provisions on loan finance charge for consumer*  
43 *loans (subsection (1) of section 16a-2-401) or the provisions on fi-*

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1 nance charge for supervised loans (subsection (2) of section 16a-2-  
2 401), whichever is appropriate. In any case, the terms of the con-  
3 verted loan shall be no less favorable to the debtor than the terms  
4 of the original loan. The amount of the rebate shall not be reduced  
5 by the amount of any permitted minimum charge (section 16a-2-  
6 510).

7 Sec. ~~2.~~ K.S.A. 16a-3-201 is hereby amended to read as follows: \_\_\_\_\_ 3.

8 16a-3-201. With respect to a consumer lease the lessor shall give  
9 to the lessee the following information:

10 (1) Brief description or identification of the goods;

11 (2) amount of any payment required at the inception of the  
12 lease;

13 (3) amount paid or payable for official fees, registration, cer-  
14 tificate of title, or license fees or taxes;

15 (4) amount of other charges not included in the periodic  
16 payments and a brief description of the charges;

17 (5) brief description of insurance to be provided or paid for  
18 by the lessor, including the types and amounts of the coverages;

19 (6) number of periodic payments, the amount of each pay-  
20 ment, the due date of the first payment, the due dates of sub-  
21 sequent payments or interval between payments, and the total  
22 amount payable by the lessee;

23 (7) statement of the conditions under which the lessee may  
24 terminate the lease prior to the end of the term; and

25 (8) statement of the liabilities the lease imposes upon the  
26 lessee at the end of the term. A lessor shall disclose to the con-  
27 sumer the information required by rules and regulations adopted by  
28 the administrator pursuant to K.S.A. 16a-6-117, and amendments  
29 thereto.

30 Sec. ~~6.~~ K.S.A. 16a-6-105 is hereby amended to read as follows: \_\_\_\_\_ 4.

31 16a-6-105. (1) With respect to supervised financial organizations, the  
32 powers of examination and investigation (sections 16a-2-305 and 16a-  
33 6-106) and administrative enforcement (section 16a-6-108) shall be  
34 exercised by the official or agency to whose supervision the organ-  
35 ization is subject. Should a supervised financial organization become  
36 licensed hereunder, a report of that portion of each examination  
37 made by the supervisory official or agency of such organization re-  
38 lating to compliance with the provisions of chapter 16a of the Kansas  
39 Statutes Annotated shall be filed with the administrator. All other  
40 powers of the administrator under this act may be exercised by the  
41 administrator with respect to a supervised financial organization ex-  
42 cept that compliance with truth in lending shall be governed as set  
43 forth in section 16a-6-104(2) subsection (2) of K.S.A. 16a-6-104,

1 *and amendments thereto.*

2 (2) If the administrator receives a complaint or other information  
3 concerning noncompliance with this act by a supervised financial  
4 organization, the administrator shall inform the official or agency  
5 having supervisory authority over the organization concerned. The  
6 administrator may request information about supervised financial or-  
7 ganizations from the officials or agencies supervising them. If such  
8 officials or agencies have cause to believe the licensee of any su-  
9 pervised financial organization subject to their supervision is subject  
10 to suspension or revocation for any reason stated in K.S.A. ~~16a-2-~~  
11 ~~203 16a-2-302~~, and any amendments thereto, such official or agency  
12 shall notify the administrator and assist the administrator in the  
13 enforcement of this act.

14 (3) The administrator and any official or agency of this state hav-  
15 ing supervisory authority over a supervised financial organization are  
16 authorized and directed to consult and assist one another in main-  
17 taining compliance with the provisions of K.S.A. 16a-1-101 through  
18 16a-9-102, and amendments thereto. They may jointly pursue in-  
19 vestigations, prosecute suits, and take other official action, as they  
20 deem appropriate, if either of them otherwise is empowered to take  
21 the action.

22 Sec. ~~(4)~~ K.S.A. 16a-6-117 is hereby amended to read as follows: \_\_\_\_\_ 5.  
23 16a-6-117. The administrator shall adopt rules and regulations nec-  
24 essary to carry out the provisions of K.S.A. 16a-3-201, 16a-3-206,  
25 16a-5-203 and 16a-5-302, and amendments thereto, which are not  
26 less restrictive than title I of the consumer protection act (public  
27 law 90-321; 82 stat. 146), as amended, and any regulations issued  
28 pursuant to such act.

29 Sec. ~~(5)~~ K.S.A. 16a-2-502, ~~16a-2-511~~, 16a-3-201, 16a-6-105 and \_\_\_\_\_ 6.  
30 16a-6-117 are hereby repealed. \_\_\_\_\_ 16a-2-507

31 Sec. ~~(6)~~ This act shall take effect and be in force from and after \_\_\_\_\_ K.S.A. 1991 Supp. 16a-2-501  
32 its publication in the statute book. \_\_\_\_\_ 7.

Section 1. K.S.A. 1991 Supp. 16a-2-501 is hereby amended to read as follows: 16a-2-501. (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 maker, which is refused payment by the drawee because the drawer or maker does not have sufficient funds in or credits with the drawee to pay the amount of the check, order or draft upon presentation, provided that any check, order or draft which is postdated or delivered to a payee who has knowledge at the time of delivery that the drawer or maker did not have sufficient

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funds in or credits with the drawee to pay the amount of the check, draft or order upon presentation shall not be deemed an insufficient check.

(ii) "Written notice" shall be presumed to have been given a drawer or maker of an insufficient check when notice is sent by restricted mail as defined by K.S.A. 60-103, and amendments thereto, addressed to the person to be given notice of such person's address as it appears on the insufficient check or to such person's last known address.

(iii) When an insufficient check has been given to a payee, the payee may charge and collect a \$10 insufficient check service charge from the drawer or maker, subject to limitations contained in this subsection or, if a larger amount is posted conspicuously, the larger amount, if the payee has given the drawer or maker oral or written notice of demand that the amount of the insufficient check plus the insufficient check service charge be paid to the payee within 14 days from the giving of notice. In no event shall the amount of such insufficient check service charge exceed \$30.

(iv) If the drawer or maker of an insufficient check does not pay the amount of the insufficient check plus the insufficient check service charge provided for in subsection (iii) to the payee within 14 days from the giving of notice as provided in subsection (iii), the payee may add the insufficient check service charge to the outstanding balance of the preexisting indebtedness of the drawer or maker to draw interest at the contract rate applicable to the preexisting indebtedness;

(f) If the written agreement, signed by the consumer, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed 15% of the amount due and payable under such written agreement, together with any court costs assessed. The attorney fees shall only be applicable where the written agreement is referred for collection to an attorney and is not handled by a salaried employee of the holder of the written agreement.

(2) An additional charge may be made for insurance written in connection with the transaction, including vendor's single interest insurance with respect to which the insurer has no right of subrogation against the consumer but excluding other insurance protecting the creditor against the consumer's default or other credit loss:

(a) With respect to insurance against loss of or damage to property, or against liability, if the creditor furnishes a clear and specific statement in writing to the consumer setting forth the cost of the insurance if obtained from or through the creditor and stating that the consumer may choose the person through whom the insurance is to be obtained; and

(b) with respect to consumer credit insurance providing life, accident and health, or loss of employment coverage, if the insurance coverage is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the consumer, and if, in order to obtain the insurance in connection with the extension of credit, the consumer gives specific affirmative written indication of the consumer's desire to do so after written disclosure to the consumer of the cost thereof.