

Approved 4-10-92 Date

MINUTES OF THE HOUSE COMMITTEE ON Commercial & Financial Institutions

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

12:30 ~~am~~/p.m. on April 9, 1992 in room 521-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Bill Caton, Consumer Credit Commissioner

The Chairperson called the meeting to order at 12:30 P.M.

Bruce Kinzie, Revisor of Statutes, gave a briefing on SB 363, stating that as amended, would enact new law to be supplemental to and a part of the Uniform Consumer Credit Code. This bill would regulate short term, single payment cash advances (loans) the amount of which could not exceed \$690. Such "pay day loans" and "tax refund anticipation loans" would be subject to the following:

On amounts of \$100 or less, the charge could be 10% of the amount plus a \$5.00 administrative fee; on amounts in excess of \$100 but not more than \$250, the charge could be 7 percent of the amount with a \$10.00 minimum plus a \$5.00 administrative fee; and for amount in excess of \$250 but less than the maximum \$690, the charge could be 6 percent of the amount with a minimum of \$17.50 plus a \$5.00 administrative fee.

The maximum term of the loan may not exceed 30 days.

The contract rate of the loan after maturity may not exceed 3 percent of the loan proceeds and no insurance or other charges may be permitted. A loan made under these terms may not be repaid with another loan made under this section by the same lender nor may the proceeds from any loan made under this section be applied to any other loan from the same lender or related interest.

If cash is advanced in exchange for a personal check and the check is returned for insufficient funds, a return check charge may be made as allowed by the current provisions of the Code; and

A loan made under this section may be unconscionable conduct with the determination being based upon factors set out in the bill.

Bill Caton, Consumer Credit Commissioner, testified in support of SB 363 stating the bill would lower the cost of money to the consumer.

Payday loans are small short-term loans that will help the consumer that is in need of this type of loan and it needs regulation. In SB 363 charges for a \$25.00 loan would be \$7.50; on a \$50.00 loan, a \$10.00 fee; on a \$75.00 loan, a \$12.50 fee; and on \$100 a \$15.00 fee. (See Attachment 1)

There was discussion stating this is a loan rather than taking a bad check and having to pay insufficient check charges plus court costs.

It was questioned what the fee is for pawn brokers? The charge is 10% per month.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions,  
room 521-S, Statehouse, at 12:30 a.m./p.m. on April 9, 1992.

After further discussion, Representative Shallenburger moved and Representative Roy seconded to move SB 363 out of committee adversely.

Representative Graeber moved and Representative Minor offered a substitute motion to move SB 363 out of committee favorably.

After discussion, the substitute motion was withdrawn.

The Chairperson asked if Representative Shallenburger wished to withdraw his motion and entertain an amendment.

Representative Shallenburger withdrew his motion to pass SB 363 out adversely.

Representative Shallenburger offered a conceptual motion and Representative Watson seconded, that any licensed lender that is is not regulated by the State Banking Commissioner or the Office of the Comptroller of the Currency be obligated to cash government checks without a charge as they are preying on the poor.

The Chairman ruled the motion germane.

The Revisor stated this language could be written in the bill.

Representative Graeber stated this would be discriminatory, i.e., cannot have banks not charging a check cashing fee and a financial agency down the street charging a fee for cashing government checks.

The Chairman stated he wanted to address Representative Shallenburger's concerns and also help the people that need payday loans. There is a need to get away from bouncing checks and trying to regulate. Representative Shallenburger withdrew his conceptual motion and Representative Watson withdrew his second to the motion.

Representative Watson moved and Representative Dillon seconded to pass SB 363 out of committee favorably.

Representative Wagle stated there is a need to move people off welfare and encourage them to be self-sufficient and this bill does not work toward that.

Commissioner Caton stated these people are living from paycheck to paycheck and this is not welfare.

Representative Watson requested a Call for the Question.

Representative Roy moved and Representative Shallenburger seconded to have the Consumer Credit Commissioner to follow through on enforcement and also have the Attorney General enforce requirements on these activities.

The Chairman ruled Representative Roy's motion was out of order as Representative Watson asked for a Call for the Question first.

Representative Watson asked if there would be any more discussion.

The Question was called.

The Chairman asked for a vote by the show of hands -- 6 yeas and 4 nays.

Senate Bill was moved out of committee favorably.

The meeting was adjourned at 1:20 P.M.

TESTIMONY OF BILL CATON  
CONSUMER CREDIT COMMISSIONER

APRIL 9, 1992

SENATE BILL 363 WILL:

LOWER the cost of money to the consumer. Presently, the check cashing industry has limited the proceeds to \$25, which makes consumers do multiple transactions. A consumer who needs \$100 is forced to make multiple transactions at a higher cost than this bill permits.

PROHIBIT the lender from collecting civil penalties for a worthless check. This bill specifically prohibits any additional charges for bad checks except for one charge defined in UCCC (\$10 to \$30). No court costs, third party collection fee, or civil penalties may be assessed. (see chart on reverse side)

ALLOW legitimate businesses to operate with a reasonable profit margin. The availability of this kind of loan from supervised lenders will discourage undesirable and possibly illegal businesses. \$15 for a \$100 loan does NOT provide exorbitant profits when the amount of risk and costs of collection are taken into consideration.

PROVIDE a simple mechanism to supervise this industry. This bill requires lenders to be licenced under the Uniform Consumer Credit Code and provides the Consumer Credit Commissioner a Statue that will be easy to enforce. All other provisions of the Code must be complied with, which includes disclosure of interest rates.

GIVE the Legislature an opportunity to be sensitive and responsive to Kansas consumers of small means who are sometimes unable to budget properly between paychecks. Their alternatives are not very pleasant when they have a week to go before payday and have NO MONEY to live on. This bill provides the best alternative.

4-9-92

CF&I  
Atch #1

SCENARIO FOR CHARGES ON RETURNED CHECKS

\$ OF CHECK	AVERAGE BANK CHG	AVERAGE RETAIL CHG	AVERAGE COLL CHG	TOTAL	COURT EXPENSES	CIVIL PENALTY	TOTAL
\$25	\$20	\$15	\$20	\$80	\$25	\$100	\$205
\$50	\$20	\$15	\$20	\$105	\$25	\$150	\$280
\$75	\$20	\$15	\$20	\$130	\$25	\$225	\$380
\$100	\$20	\$15	\$20	\$155	\$25	\$300	\$480

PAYDAY LOAN COSTS

CASH RECEIVED	LOAN CHARGE	TOTAL
\$25	\$7.50	\$32.50
\$50	\$10.00	\$60.00
\$75	\$12.50	\$87.50
\$100	\$15.00	\$115.00

**60-2610. Civil liability for worthless check.** (a) If a person gives a worthless check, as defined by subsection (g), the person shall be liable to the holder of the check for the amount of the check, the incurred court costs and the service charge and the costs of collection, including but not limited to reasonable attorney fees, plus an amount equal to the greater of the following:

- (1) Damages equal to three times the amount of the check but not exceeding the amount of the check by more than \$500; or
- (2) \$100.

The court may waive attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check.

CONFERENCE COMMITTEE REPORT - April 10, 1992

SENATE BILL 363

Members: Senator Dick Bond  
Senator Alicia Salisbury  
Senator John Strick  
Representative Bill Roy  
Representative Clyde Graeber  
Representative Delbert Gross

The meeting was brought to order at 7:45 and due to no Senators attending the meeting, the Chairman adjourned the meeting at 7:48 A.M.

Delbert L. Gross  
Chairperson