

Approved: March 16, 1993  
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson William Bryant at 3:30 p.m. on March 15, 1993 in Room 527-S of the Capitol.

All members were present except: Representative Phil Kline, Excused

Committee staff present: William Wolff, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Stephen A. English, Trust Company of Kansas  
Newton Male, Prairie State Bank  
Judi Stork, Banking Department  
Daryl Craft, Guardian Trust Company  
Jim Maag, Kansas Bankers Association  
June Lynn, KBA Trust Division  
Richard Ciemny, First National Bank of Anthony  
Jennifer Chaulk Wentz, Secretary of State's Office

Others attending: See attached list

**Hearing on SB 179: Trust service officers, regulations by bank commissioner**

Stephen A. English, President of The Trust Company of Kansas, appeared in support of the bill. The bill establishes procedures for obtaining the state banking board's approval in the same manner as the procedures that banks currently must follow to get approval for operating a branch office. The powers granted to trust companies are currently restricted to those identified under K.S.A. 9-2103. He explained the situation the trust company is in Lawrence due to the sale of the bank they were operating in to a bank in St. Louis. In order to continue to serve clients, they must have a location in Lawrence and possibly other branch offices (Attachment 1).

Newton Male, Prairie State Bank of Augusta, presented testimony in support of the bill to the Committee (Attachment 2). Because many banks do not operate trust departments due to the expense of hiring financial experts, attorneys, and support staff, the need for independent trust companies is needed in many communities. Many of the large banks which do have trust departments have put branches in communities but it does not make good business sense to send customers to competitors who will take the decision-making authority of the trust department to the cite of their corporate headquarters. The trust business demands a high level of personalized service which is best delivered as close to the customer as possible.

Judi Stork of the Kansas Banking Department, reported they had no opposition to the bill which would allow trust companies to locate anywhere in Kansas with the approval of the Banking Commissioner.

Daryl Craft, President of The Guardian Trust Company in Topeka, spoke on behalf of the bill and cited the inequities which exist in Kansas statutes favoring trust departments in banks (Attachment 3). Banks currently have the power to branch and provide trust services through those branches; trust companies do not have a similar power. This bill would allow the Banking Department to grant approval of a trust service office after a thorough investigation of the application and consideration of all relevant factors.

Jim Maag, Kansas Bankers Association, appeared as an opponent to the bill (Attachment 4). He stated that the bill was drafted initially to solve a problem involving one state chartered trust company and now due to extensive amendments, the bill now involves a basic structure change for trust operations in the state. He expressed concern about creating a whole new statewide trust branching procedures without some indication of how it might affect existing trust operations throughout the state.

June Lynn, President of the Kansas Bankers Association 's Trust Division, stated that the two concerns of the Trust Division Board were (Attachment 5):

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527-S Statehouse, at 3:30 p.m. on March 15, 1993.

1. Whether a branch could be limited to bank trust department activity only.
2. The bill does not thoroughly address capital requirements.

**Hearing on SB 36: Loan production offices of banks**

Judi Stork, Kansas Banking Department, stated that this bill would require that before any new loan production office (LPOs) could be established in a Kansas bank or trust company, prior approval of the Commissioner's office would be necessary (Attachment 6). The bill also includes the stipulations and requirements for this approval. This bill would allow the department to know who is operating an LPO in Kansas and grants the department oversight and examination authority.

Richard Ciemny, First National Bank of Anthony, spoke in opposition to the bill on the following points (Attachment 7):

1. The comptroller of the Currency, the Federal Reserve, and FDIC have authority for examination and there is no point in allowing the Bank Commissioner to inspect, examine or investigate the business and records of loan production office. This would be counterproductive.
2. The prohibition of Loan Production Offices from preparing loan documents would create a considerable amount of inconvenience to the consumer.

**Hearing on SB 105: Filing requirements under the uniform commercial code**

Jim Maag, Kansas Bankers Association, spoke on behalf of the bill which would allow the use of Social Security numbers (SSN) and Federal Employer Identification Numbers (FEIN) on the U-1 financing statements (Attachment 8). It would allow for a quick and accurate check in situations where they could easily be confused over a name. The Association also supports the amendment which would require the signing by both parties of financing statements in those statements which materially changes or "prejudiced" the position of the debtor.

Jennifer Chaulk Wentz, Deputy Assistant to the Secretary of State, asked for the favorable consideration of the bill which would enable their office to search uniform commercial code records in a more timely and efficient manner (Attachment 9).

Representative Neufeld moved that the balloon amendments for SB 23 as presented by the Insurance Department be accepted. Representative Wagle seconded the motion. The motion carried. Representative King moved for the favorable passage of the bill as amended. Representative Neufeld seconded the motion. The motion carried.

Representative Neufeld moved that the amendments proposed by Jerry Banaka on behalf of Kansas Life Association and approved by Robert Epps of SRS and technical changes by the Revisor be incorporated into SB 321. Representative King seconded the motion. The motion carried. Representative Helgerson moved that SB 24 be amended into SB 321. Representative Correll seconded the motion. The motion carried. Representative Helgerson moved that SB 321 be passed as amended. Representative Crabb seconded the motion. The motion carried.

The meeting adjourned at 5:10 p.m. The next meeting is scheduled for March 16, 1993.

GUEST LIST

COMMITTEE: F.A.A. (House)

DATE: 3-15-93

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
STEPHEN A ENGLISH	WICHITA, KS	TRUST CO. of KS
Daryl V. Craft	Topeka	GUARDIAN TRUST
W. NEWTON MALE	AUGUSTA, KS	PRAIRIE STATE BANK
JUDI STORK	Topeka, KS	Ks Banking Dept
Kevin Glendening	" "	" "
George Barbee	Topeka	Ks Assn Fin. Servs.
Alan Steppat	Topeka	Pete McGill & Assoc.
BILL HENRY	Topeka	Trust Co. of KS
Bill SNEED	TOPEKA	State Farm
John Peterza	Tyrle	Columbian Trust Co
Lee Wright	Overland Park	Farmers Ins. Group
L.M. CORNISH	Topeka	Ks Life Ins Assoc
Chuck Stones	"	KBA
Dick Brock	"	Ins Dept
June Lynn	Atchison	KBA trust division
Richard Gemmy	Derby	FNB of Anthony
Mara Palyuzka	overland pr. KS	Philip Morris/Kraft food
Rep. Jerry Gemmy	Atchison, Ks	<del>Atchison</del>
Jeff Somnich	Topeka	KNCST
Bryan LaBree	Overland Park	Columbian Trust Co
Jennifer Chaulk Wentz	Topeka	Sec. of State
Kathy Taylor	Topeka	Ks Bankers Assn

**TESTIMONY**  
**House Committee on Financial Institutions & Insurance**  
**March 15, 1993**

My name is Stephen A. English. I am President of The Trust Company of Kansas, headquartered in Wichita, Kansas. I appear today in favor of Substitute for Senate Bill 179.

The Trust Company of Kansas was the first independent trust company to be chartered after the amendments to the Kansas statutes pertaining to trust companies were enacted by the 1989 Kansas Legislature. We are currently managing trust assets of a approximately \$72 million.

The Trust Company of Kansas is a trust company in the truest sense of the word. We do not accept deposits. Nor do we make any loans whatsoever. Instead, our business is based entirely upon exercising the fiduciary powers granted trust companies by Kansas law. The trust business is a very personal business. In some cases, our clients are asking us to manage their entire life savings. As the name of our company implies, the relationships with our clients are built upon trust. While investing and accounting for assets can be done in a central location, we must have the ability to foster and maintain personal contacts with our clients if we are to provide them with the personalized service and attention that trust customers have come to expect over the years.

The passage of Substitute for S.B. 179 is imperative for trust companies because it will allow trust companies to:

- (1) compete with all bank trust departments on a level-playing field and
- (2) offer Kansas consumers an additional local regulated source of trust services at a time when traditional sources are shrinking due to consolidation of Kansas banks and out-of-state acquisitions resulting from our state's opening of its borders to banks from neighboring states.

What S.B. 179 does:

Substitute for S.B. 179 establishes procedures for obtaining the state banking board's approval in the same manner as the procedures that banks currently must follow to get approval for operating a branch office under the provisions of K.S.A. 9-1111.

Secondly, the powers granted to trust companies are restricted to those current statutory powers identified under K.S.A. 9-2103.

I am testifying in support of this bill today because The Trust Company of Kansas currently finds itself in a situation that was probably unforeseen by the Legislature at the time it enacted

*House Financial Institutions  
and Insurance  
Attachment 1  
March 15, 1993*

K.S.A. 9-2107 in 1989. That statute allows independent trust companies to enter into contracts with a commercial bank whereby the trust company will be substituted for the bank's trust department as to all accounts for which the bank trust department serves in any fiduciary capacity.

In the summer of 1991 The Trust Company of Kansas was the first trust company in this state to enter into such an agreement. We entered into a trustee substitution agreement for Lawrence National Bank in August of 1991. We followed the procedures required by K.S.A. 9-2107 and succeeded to the powers of the Lawrence National Bank for all the approximately 135 trust accounts that the trust department of that bank was managing at the time.

Pursuant to the agreement we established a trust service desk on the premises of the Lawrence National Bank and we had two full time employees servicing those accounts. In December of 1991 the unforeseen occurred. The owner of the Lawrence National Bank passed away and the Lawrence National Bank was subsequently sold to the owner of the First National Bank of Lawrence headquartered in Kansas City. The First National Bank of Lawrence subsequently sold to Mercantile Bank out of St. Louis, Missouri in the summer of 1992.

The Trust Company of Kansas was notified that the Lawrence National Bank desired to terminate the trustee substitution agreement because the First National Bank had an existing trust department. In this particular case without The Trust Company of Kansas' involvement, the trust customers at that bank would have experienced three different institutions managing their financial assets in less than a year. That is certainly de-stabilizing for the Kansas consumer.

To complicate the situation further Attorney General's opinion, No. 92-100 was issued by Attorney General Bob Stephan's Office on July 28, 1992. This opinion concluded that trust companies do not have the authority to establish branch offices.

Thus, on August 1 of 1992 The Trust Company of Kansas found itself in a position of having to service approximately 150 customers located in the Lawrence area under circumstances where our trustee substitution agreement had been terminated and with an Attorney General's opinion which concluded we did not have the authority to establish a satellite office location to service these customers on the personal basis that is so necessary for the successful operation of our business.

Substitute for S.B. 179 will enable The Trust Company of Kansas to continue to service Lawrence customers, and also to expand elsewhere when we are ready to undertake that step in the same manner as banks which already have the power to branch and establish satellite trust department locations in accordance with Kansas law.

Indeed, last Thursday, this Committee recommended for passage S.B. 35, which gave banks the same trust powers as independent trust companies now have under the statutes. We did not oppose such an allowance for bank trust companies because we are willing to compete on an equal basis with those companies.

Finally, Substitute for S.B. 179 does not grant to trust companies any additional powers than what currently exist. The bill does allow trust companies to establish trust service offices in other locations.

However, for a trust company to expand it must go through the same notification and hearing procedures that banks currently must go through to establish branch offices.

In conclusion, The Trust Company of Kansas desires the same right to establish local office to serve Kansas consumers as banks have. As a Kansas charter business, we believe Kansas consumers will best be served by having the right to select a Kansas company. Substitute for S.B. 179 will enable my company, as well as other independent trust companies, to continue to grow and offer their services to Kansas customers throughout the state.

TESTIMONY OF W. NEWTON MALE  
IN FAVOR OF SUBSTITUTE FOR SENATE BILL 179 BEFORE  
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

March 15, 1993

Today I come to speak in favor of the Senate bill before you relating to the authorization and supervision of trust service offices by Kansas chartered trust companies.

I bring the perspective of: 1) a former member of the House of Representatives; 2) a former Kansas Bank Commissioner; and 3) chairman and president of an independent community-oriented bank in Augusta, Kansas. In addition, I hold the position as the President-elect for the Kansas Bankers Association. The testimony given is my own and should not be construed as representing the view of the Kansas Bankers Association.

Prairie State Bank in Augusta, Kansas, does not operate a trust department within the bank. Our primary focus has been in the traditional services of banking. The bank's resources have been dedicated to providing our customers with the finest of products and services at competitive prices.

The original Trust Company Act was passed by the Legislature while I was Kansas Bank Commissioner in 1989. I was in support of the concept as commissioner and as a Kansas community banker because it afforded the banks and the consumer a new source for trust services. When my customers are in need of trust services, I have no hesitation in recommending the services of a trust company which is regulated by the Kansas Banking Department.

Before the Trust Company Act, I recommended my customers use the trust services of a trust department of a large bank. However, many of those banks have become my competition since branch banking was introduced. As an independent Kansas chartered bank, it does not make good business sense to recommend to my best customers that they use the services of a competitor, when the services of an independent trust company are available. In Augusta, we would welcome the opening of a trust service office if a trust company recognized a need for such in our community. The trust business demands a high level of personalized service which is best delivered as close to the customer as possible.

Additionally, many of the larger banks which have trust departments are being purchased by out-of-state banks who eventually will take the decision-making authority of the trust department to the city of their corporate headquarters, wherever that might be.

As a handful of large banks purchase Kansas banks with trust departments, Kansas consumers have fewer choices about where they will receive their trust services and who will be making the decisions affecting their trusts after they are gone.

Earlier in this legislative session, Senate Bill 35 was favorably passed out of this committee. It permits a bank to act as "contracting trustee" with

*House Financial Institutions  
& Insurance*

*Attachment 2*

*March 15, 1993*

Page 2

W. Newton Male

House Committee Testimony

March 15, 1993

other financial institutions. This is a role previously reserved for Kansas trust companies.

It would seem fair and equitable to allow Kansas chartered trust companies to open trust service offices in Kansas to service their clients throughout the state much like bank branching in order to effectively compete for the services of the Kansas consumer.

The Senate bill before you gives a Kansas chartered entity the opportunity to compete more effectively with the new out-of-state competition, thus expanding the choices available to the Kansas consumer. I urge you to vote in favor of the bill.



# **The Guardian Trust Company**

707 Quincy  
Topeka, Kansas 66603

Daryl V. Craft  
President

## **Hearing on Senate Bill 179 Before the House Financial Institutions and Insurance Committee**

Good Afternoon. My name is Daryl Craft. I am President of The Guardian Trust Company, here in Topeka. I appreciate the opportunity to say a few words to you this afternoon.

Guardian is one of a handful of **independent** trust companies, chartered by the Kansas Banking Department. By independent, I mean that Guardian is owned by individuals, and that it has no ownership ties to any other financial institution.

I am here to speak in favor of Senate Bill 179. At the current time, an inequity exists in the Kansas statutes which favors trust departments in banks. Banks currently have the power to branch and provide trust services thru those branches. Trust companies do not have a similar power. Senate Bill 179 was introduced to provide for trust companies a process very similar to that which a bank must complete to obtain approval for a branch. Approval of a **trust service office** would be granted by the Kansas Banking Board, after a thorough investigation of the application and consideration of all relevant factors.

With the current wave of out of state acquisitions of Kansas financial institutions expected to continue, it is almost certain that some Kansas communities will be left without a Kansas owned provider of trust services, or persons may be left without a choice of trust service providers. Independent trust companies are ideally suited to fill this void. Trust companies are becoming an increasingly important source of trust services for Kansas residents. Passage of this bill will help make those services available to persons in many more Kansas communities..

Thank you.

*House Financial Institutions &  
Insurance*

*Attachment 3*

*March 15, 1993*



The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

March 15, 1993

TO: House Committee on Financial Institutions and Insurance  
RE: **Sub for SB 179** - Establishment of trust service offices

Mr. Chairman and members of the committee:

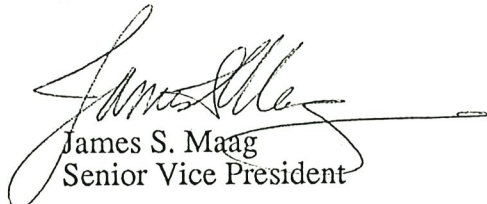
Thank you for the opportunity to appear before the committee to discuss the provisions of **Sub for SB 179**. This bill was drafted initially to solve a problem involving one state chartered trust company, but due to extensive amendments by the Senate FI&I Committee the bill now involves a basic structure change for trust operations in the state.

A number of Kansas bankers have expressed concern about the bill in its present form. The committee certainly empathizes with the problem which Trust Company of Kansas has with its current office in Lawrence and there is no objection whatsoever to finding a reasonable solution to that problem. However, the committee does question why it is necessary to create a statewide branching structure for all trust companies in order to solve a specific problem.

There is the additional issue of capital adequacy. When the Legislature addressed the issue of appropriate capital levels for trust companies in 1989 there was little, if any, discussion about what that level should be if a trust company established a statewide network of trust service offices as this bill would allow.

Trust services are a very specialized and expensive part of any banking operation. A number of Kansas banks have opted to not even exercise their existing trust powers due to the difficulty in hiring qualified personnel and other cost factors. We believe there is some danger in creating a whole new statewide trust branching procedure without some indication of how it might affect existing trust operations throughout the state.

We would, therefore, request that the committee look at alternatives which would allow a resolution of the problem which Trust Company of Kansas currently has without creating a statewide branching structure for trust companies. Language similar to that which is provided for another trust company in Section 4 of the bill might be appropriate.

  
James S. Maag  
Senior Vice President

*House Financial Institutions  
and Insurance  
Attachment 4  
March 15, 1993*

Office of Executive Vice President • 1500 Merchants National Building  
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444  
FAX (913) 232-3484



My name is June Lynn. I am Vice President & Trust officer at City National Bank of Atchison, Kansas. I also presently serve as President of the Kansas Bankers Association's Trust Division. Today, I am representing the KBA Trust Division's Board of Directors on this bill.

Initially the Trust Division Board voted at the regular Board meeting 2/19/93 to oppose Senate Bill 179 in its present form. Our Board had 2 major concerns. KSA 9-1111 provides authority for a state bank with approval by the State Banking Board, to operate a branch, it was unclear to us as to whether a branch could be limited to bank trust department activity only and looking at Senate Bill 179 it does not include bank trust departments. Our second concern was that of capital. Although capital required for trust activity differs from capital requirements for the other functions of the bank such as deposits and loans, certain risks are involved. Under present law, trust companies are required to have \$250,000.00 in capital.

Since that February Board meeting we have received an opinion from William G. Grant, Jr. Staff Attorney for the State Banking Department. Mr. Grant wrote an informal opinion of the State Banking Department's position. That opinion stated ""that KSA 9-1111 nor any other authority...requires a branch to perform ever core function of a main bank..." and that the Banking Department..."Holds the position a branch approved by the State Banking Board pursuant to KBA 9-1111 would be "Authorized" to perform all the functions of a bank, but there is not requirement that the branch perform each of those functions. Therefore, a bank, following successful application for a branch facility, should be allowed to limit activity to trust services or any other limited scope of permitted activities."

Because of this opinion letter, the KBA Trust Division cannot oppose this bill on the basis it gives equal opportunity to trust companies.

The question concerning capital is more complicated. We believe more study is needed to address this issue and should probably be addressed under the branching regulations.

In summary, with the facts I've just stated, the KBA Trust Division does not oppose this bill. We do want to inform you of our concerns for the need for capital to support branching activities. We feel that any major effort to qualify the capital, needs study and input from both banks and trust companies alike. Therefore, we request that the State Banking Board consider capital requirements to support branching activities with input from Trust Departments and Trust Companies.

*House Financial Institutions  
and Insurance*

*Attachment 5*

*March 15, 1993*

SENATE BILL 36, is not amending any existing law and would be a new section within the banking code relating to Loan Production Offices(LPOs). This bill would require that before any new loan production office could be established in Kansas by a bank or trust company, prior approval of the Commissioner's office would be necessary. Additionally, the bill establishes annual reporting requirements for loan production offices, it details the activities which are permissible and impermissible, defines the Commissioner's authority to examine LPOs, and grants the Commissioner authority to revoke the LPOs authority to operate.

To give you some background on this issue, prior to 1986, the banking code stated that a bank could not "establish and operate any branch bank, branch office or agency or place of business" except as provided by that section. In 1986 this language was removed. In 1988 our office asked the Attorney General for an opinion as to whether or not a LPO was governed by the branching statute within the banking code. The Attorney General opined that a LPO was not a branch bank and was not subject to that section of the banking code. Our in house counsel at that time further opined that since the activities pursued at a LPO are not considered general banking business, as no core functions are performed, the banking code does not restrict the activities. The department distributed an all bank mailing in August, 1990 which outlined both the Attorney General's and the department's opinion regarding LPOs.

The department is requesting this new section of the banking code to allow the department to know who is operating an LPO in Kansas. Currently we have no knowledge of any out of state bank LPOs and are aware of only a handful of Kansas bank LPOs. Additionally, we think this new section will give guidance as to acceptable activities to those wishing to establish and maintain a LPO. Finally, it grants the department specific oversight and examination authority of these offices.

*Financial Institutions  
Insurance  
Attachment 6  
March 15, 1993*



**FIRST NATIONAL BANK  
OF ANTHONY**

"First in Anthony"

March 15, 1993

Dear Mr. Chairman and Members of the Committee:

Thank you for taking the time to allow our bank to discuss with you Senate Bill No. 36. Our bank, First National Bank of Anthony, has a Loan Production Office in Wichita and has objection to the overall bill, in particular a couple of points.

Point One, allowing the Bank Commissioner to inspect, examine, or investigate the business and records of loan production offices. Presently, the comptroller of the Currency examines our bank and any activity with our loan production office. Additionally the FDIC and Federal Reserve could examine us. Giving the Commissioner authority would seemingly serve no additional function and is in conflict with President Clinton's Regulatory Relief Program whereby he wants to increase coordination of examinations by regulatory agencies and reduce duplication in examinations to minimize uncertainty and disruption to bank and thrift operations whenever backup or duplicate examinations are required by law.

Point Two, prohibiting the Loan Production Office from preparing any loan documents, thus creating a considerable amount of inconvenience to the consumer. If the consumer were to enter the office prepared to sign his papers, only to find the payment date may have been incorrectly typed, he would then have to wait two days for new papers to be drawn and delivered. Likewise, if the consumer wanted, at the last minute, to change terms or amount, he then would have to wait two more days for new papers. Allowing the documents to be prepared on site, would eliminate this inconvenience to the consumer and allow for better use of staffing, thus reducing cost to the consumer.

Again, thank you for your consideration in objecting to or possibly changing Senate Bill No. 36. Additionally, I would welcome you to contact me, if additional clarification or discussion is needed concerning these points.

Respectfully submitted,

Richard Ciemny  
Vice President  
and Manager of  
Loan Production Office  
First National Bank of Anthony

Main & Bluff  
P.O. Box 484  
Anthony, Kansas 67003  
1-316-842-5161  
1-800-371-5161  
FAX 1-842-5791

Attachment 7

March 15, 1993

Loan Production Office  
889 North Maize Rd. Suite 200  
Wichita, Kansas 67212  
316-721-9000  
FAX 316-721-9086



The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

March 15, 1993

TO: House Committee on Financial Institutions and Insurance  
RE: **SB 105** - Amendments to the Uniform Commercial Code (UCC)

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of **SB 105**. This bill includes two amendments to the Uniform Commercial Code (UCC) which we believe will be beneficial to both creditors and debtors.

Under the provisions of the UCC, creditors may file "financing statements" with the appropriate local or state authorities for the purpose of notifying all other potential creditors that a security interest exists in relationship to certain collateral. By filing such a financing statement, which is commonly referred to as a "UCC-1" the creditor has "perfected" his or her security interest under the provisions of the UCC and, in most instances, no other creditor may acquire a preferential position on the collateral referenced in the financing statement. In Kansas most UCC-1 filings have been made with the Secretary of State since 1984 although certain filings - such as those relating to personal property - are still made with the Register of Deeds office in the appropriate county.

**SB 105** addresses a problem which arises frequently in the UCC-1 filing process. It has to do with the confusion created over similar names or variations of the same name on a filing. As a result, many problems can develop in doing a lien search.

One way several states have dealt with this problem is by allowing the use of Social Security numbers (SSN) and Federal Employer Identification numbers (FEIN) on the UCC-1 financing statements. This allows for a quick and accurate check in situations where there could easily be confusion over a name. The use of the numbers has become increasingly commonplace to the point where they are often used for conference registrations, on drivers licenses, and their use is even mandated under certain federal laws. Thus it is not unprecedented that these numbers be required on documents. The use of the FEIN or SSN on UCC-1 statements, as is provided in **SB 105**, would save time for everyone involved in a loan transaction and would certainly be a safer and less costly approach for creditors.

The other problem addressed in **SB 105** relates to amendments to existing UCC-1 financing statements. Currently under the provisions of the UCC any amendments to an existing UCC-1 must contain the signatures of both the debtor and the creditor. This includes even such simple items as a change in address. Much time, money, and hassle could be saved for all parties

*House File*  
*Attachment 8*

Office of Executive Vice President • 1500 Merchants National Building  
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444  
FAX (913) 232-3484

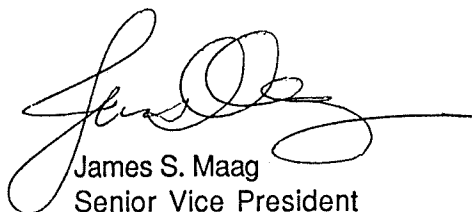
*March 15, 1993*



involved if only creditors were required to sign financing statements in those situations which did not materially change or "prejudice" the position of the debtor.

The International Association of Corporation Administrators has adopted a resolution endorsing this change and requesting state legislatures to adopt such an amendment to the UCC. Section 1 (4) of **SB 105** incorporates this change.

We appreciate your attention to this important matter and strongly urge the committee to recommend **SB 105** favorably.



James S. Maag  
Senior Vice President

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

TESTIMONY OF JENNIFER CHAULK WENTZ  
Deputy Assistant Secretary of State  
Legal Counsel

COMMERCIAL, FINANCIAL INSTITUTIONS AND INSURANCE  
March 15, 1993

SENATE BILL 105

Thank you Mr. Chairman and members of the committee.

I appear before you today to ask for your favorable consideration of Senate Bill 105, requiring that Federal Employer Identification Numbers or social security numbers be recorded on Uniform Commercial Code financing statements, continuation statements, assignments and releases which are filed in the Secretary of State's office.

Current law enables our office to search uniform commercial code records by the name of the debtor. This type of search leaves the door open for errors in the system. Because we can only report information on exact name searches, anytime a debtor is filed either with or without a middle initial, a single search of our records will not report a match. Derivations of names (for example, "Bill" and "William") also require two searches to pick up all information.

Requiring a FEIN will allow secured parties to search a debtor by a single, uniform number and be assured that they have a complete search of all liens against that debtor.

The bill was introduced requiring only a FEIN, but was amended by the Senate Financial Institutions and Insurance committee to require either FEINs or social security numbers.

Secondly, SB 105 requires on page 3, lines 19-26, that any amendment to a financing statement, except one changing the classification or value of collateral, be signed only by the secured party. This differs from current law in that signatures of the secured party and the debtor are required on all amendments.

Thank you.

*Jennifer Chaulk Wentz*  
*Attachment 9*  
*March 15, 1993*



# Application for Employer Identification Number

(For use by employers and others. Please read the attached instructions before completing this form.)

EIN  
 OMB No. 1545-0003  
 Expires 4-30-94

**Please type or print clearly.**

1 Name of applicant (True legal name) (See instructions.)

2 Trade name of business, if different from name in line 1

3 Executor, trustee, "care of" name

4a Mailing address (street address) (room, apt., or suite no.)

5a Address of business (See instructions.)

4b City, state, and ZIP code

5b City, state, and ZIP code

6 County and state where principal business is located

7 Name of principal officer, grantor, or general partner (See instructions.) ▶

8a Type of entity (Check only one box.) (See instructions.)

Individual SSN \_\_\_\_\_  Estate  Trust

REMIC  Personal service corp.  Plan administrator SSN \_\_\_\_\_  Partnership

State/local government  National guard  Other corporation (specify) \_\_\_\_\_  Farmers' cooperative

Other nonprofit organization (specify) \_\_\_\_\_ If nonprofit organization enter GEN (if applicable) \_\_\_\_\_

Other (specify) ▶ \_\_\_\_\_

8b If a corporation, give name of foreign country (if applicable) or state in the U.S. where incorporated ▶ Foreign country State

9 Reason for applying (Check only one box.)

Started new business  Changed type of organization (specify) ▶ \_\_\_\_\_

Hired employees  Purchased going business

Created a pension plan (specify type) ▶ \_\_\_\_\_  Created a trust (specify) ▶ \_\_\_\_\_

Banking purpose (specify) ▶ \_\_\_\_\_  Other (specify) ▶ \_\_\_\_\_

10 Date business started or acquired (Mo., day, year) (See instructions.)

11 Enter closing month of accounting year. (See instructions.)

12 First date wages or annuities were paid or will be paid (Mo., day, year). **Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (Mo., day, year)** ▶

13 Enter highest number of employees expected in the next 12 months. **Note: If the applicant does not expect to have any employees during the period, enter "0."** ▶ Nonagricultural Agricultural Household

14 Principal activity (See instructions.) ▶

15 Is the principal business activity manufacturing?  Yes  No  
 If "Yes," principal product and raw material used ▶

16 To whom are most of the products or services sold? Please check the appropriate box.  Business (wholesale)  N/A  
 Public (retail)  Other (specify) ▶

17a Has the applicant ever applied for an identification number for this or any other business?  Yes  No  
**Note: If "Yes," please complete lines 17b and 17c.**

17b If you checked the "Yes" box in line 17a, give applicant's true name and trade name, if different than name shown on prior application.

True name ▶ Trade name ▶

17c Enter approximate date, city, and state where the application was filed and the previous employer identification number if known.

Approximate date when filed (Mo., day, year) City and state where filed Previous EIN

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.

Name and title (Please type or print clearly.) ▶ Telephone number (include area code)

Signature ▶ Date ▶

**Note: Do not write below this line. For official use only.**

Please leave blank ▶ Geo. Ind. Class Size Reason for applying

2099