

Approved: January 18, 1995
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Bill Bryant at 3:30 p.m. on January 11, 1995 in Room 527S of the Capitol.

All members were present except: Representative Sawyer, Excused

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

Conferees appearing before the committee: William Sneed, State Farm
Bill Caton, Department of Consumer Credit
Chuck Stones, Kansas Bankers Association
Judy Stork, Office of State Bank Commissioner

Others attending: See attached list

William Sneed representing State Farm Insurance presented the Committee with information regarding proposed legislation which deals with uninsured and underinsured motorist coverage under the Kansas No-Fault law. The proposed amendment would ideally correct the problem in multi-car issues (Attachment 1).

Representative Dawson moved that the bill be introduced into legislation with Representative Humerickhouse seconding the motion. The motion carried.

William F. Caton, Consumer Credit Commissioner, gave an overview of his office's responsibilities. He also requested statutory changes to the UCCC which would delete language no longer necessary as pre-computed contracts are not permitted by the UCCC (Attachment 2).

Representative moved that the proposal be introduced into legislation. Representative Cox seconded the motion. Motion carried.

Vice-Chairperson Donovan conducted the meeting during Chairperson Bryant's absence.

Chuck Stones, Kansas Bankers Association, requested the introduction of three bills: UCC designation of partnership/sole proprietorship by small business, use of electronic reproduction devices, and the confidentiality of compliance records and files (Attachment 3). Currently any discrepancies found internally by the bank can be used against them. The Savings and Loan League has indicated interest in being involved with this proposed legislation.

Representative Samuelson moved that these proposals be introduced into legislation. Motion was seconded by Representative Wilson. Motion carried.

Judy Stork, Office of the State Bank Commissioner, gave an overview of the responsibilities of the office. She also submitted proposals for eight changes to ten statutes (Attachment 4).

Representative Cox moved for the introduction of this proposal as a package into legislation. Motion was seconded by Representative Merritt. Motion carried.

The meeting was adjourned at 4:05 p.m. The next meeting is scheduled for January 18, 1995.

HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE GUEST LIST

DATE: 1-11-95

NAME	REPRESENTING
B. H. SNEED	State Farm
Kim Phillips	state Farm
Lol Wright	FARMERS Ins. Group
George Barber	KAFS
Chuck Stones	KBA
Alan STEPPAT	PETE MCGILL + Assoc.
Judi Stork	OSBC
WILLIAM GRANT	OFFICE STATE BANK COMR.
Kevin Glendening	" "
John Newman	KS Governmental Consulting
Stacey Simpson	Hein, Ebert & Weir
Danielle Noe	KCUA
Bill Caton	Consumer Credit
Sabrina Wells	Budget Division
Joe Fungai	KS Charismatic Assn
Jim Mays	KBA
John Peterson	
Larry Majell	Prich
Greggians	Rep. Sawyer

MEMORANDUM

TO: The Honorable William F. Bryant, Chairman
House Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel
The State Farm Insurance Companies

DATE: January 11, 1995

RE: H.B. 2833

On behalf of my client, The State Farm Insurance Companies, I respectfully request that the attached be introduced as a committee bill. During the 1994 legislative session, the attached was introduced in the House Financial Institutions and Insurance Committee. H.B. 2833 was an amendment to K.S.A. 40-284, which deals with uninsured and underinsured motorist coverage under the Kansas No-Fault law. This amendment will correct the problem in multi-car issues that was created based upon the Kansas Supreme Court's decision in *Farmers Insurance Group v. Gilbert*, 14 Kan.App.2d 395, 247 Kan. 589 (1990).

Last session, H.B. 2833 passed both the House and the Senate; however, the bill was subsequently vetoed by Governor Finney. As a result, we respectfully request the introduction of the attached proposal.

I appreciate your consideration, and if you have any questions, please feel free to contact me.

Respectfully submitted,



William W. Sneed

HOUSE BILL No. 2833

By Committee on Financial Institutions and Insurance

2-3

9 AN ACT relating to automobile liability insurance; concerning certain
10 exclusions or limitations of coverage; amending K.S.A. 40-284 and
11 repealing the existing section.
12

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

14 Section 1. K.S.A. 40-284 is hereby amended to read as follows:
15 40-284. (a) No automobile liability insurance policy covering liability
16 arising out of the ownership, maintenance, or use of any motor
17 vehicle shall be delivered or issued for delivery in this state with
18 respect to any motor vehicle registered or principally garaged in this
19 state, unless the policy contains or has endorsed thereon, a provision
20 with coverage limits equal to the limits of liability coverage for bodily
21 injury or death in such automobile liability insurance policy sold to
22 the named insured for payment of part or all sums which the insured
23 or the insured's legal representative shall be legally entitled to re-
24 cover as damages from the uninsured owner or operator of a motor
25 vehicle because of bodily injury, sickness or disease, including death,
26 resulting therefrom, sustained by the insured, caused by accident
27 and arising out of ownership, maintenance or use of such motor
28 vehicle, or providing for such payment irrespective of legal liability
29 of the insured or any other person or organization. No insurer shall
30 be required to offer, provide or make available coverage conforming
31 to this section in connection with any excess policy, umbrella policy
32 or any other policy which does not provide primary motor vehicle
33 insurance for liabilities arising out of the ownership, maintenance,
34 operation or use of a specifically insured motor vehicle.

35 (b) Any uninsured motorist coverage shall include an underin-
36 sured motorist provision which enables the insured or the insured's
37 legal representative to recover from the insurer the amount of dam-
38 ages for bodily injury or death to which the insured is legally entitled
39 from the owner or operator of another motor vehicle with coverage
40 limits equal to the limits of liability provided by such uninsured
41 motorist coverage to the extent such coverage exceeds the limits of
42 the bodily injury coverage carried by the owner or operator of the
43 other motor vehicle.

1 (c) The insured named in the policy shall have the right to reject,
2 in writing, the uninsured motorist coverage required by subsections
3 (a) and (b) which is in excess of the limits for bodily injury or death
4 set forth in K.S.A. 40-3107 and amendments thereto. A rejection
5 by an insured named in the policy of the uninsured motorist coverage
6 shall be a rejection on behalf of all parties insured by the policy.
7 Unless the insured named in the policy requests such coverage in
8 writing, such coverage need not be provided in any subsequent
9 policy issued by the same insurer for motor vehicles owned by the
10 named insured, including, but not limited to, supplemental, renewal,
11 reinstated, transferred or substitute policies where the named in-
12 sured had rejected the coverage in connection with a policy pre-
13 viously issued to the insured by the same insurer.

14 (d) Coverage under the policy shall be limited to the extent that
15 the total limits available cannot exceed the highest limits of any
16 single applicable policy, regardless of the number of policies in-
17 volved, persons covered, claims made, vehicles or premiums shown
18 on the policy or premiums paid or vehicles involved in an accident.

19 (e) Any insurer may provide for the exclusion or limitation of
20 coverage:

21 (1) When the insured is occupying or struck by ~~an uninsured~~
22 ~~automobile or trailer~~ *a motor vehicle owned by or provided for*
23 *the insured's regular use, if such motor vehicle is not described in*
24 *the policy under which the claim is made or is not a newly acquired*
25 *or replacement motor vehicle covered under the terms of the policy*
26 *under which the claim is made;*

27 (2) when the uninsured ~~automobile~~ *motor vehicle* is owned by
28 a self-insurer or any governmental entity;

29 (3) when there is no evidence of physical contact with the un-
30 insured motor vehicle and when there is no reliable competent
31 evidence to prove the facts of the accident from a disinterested
32 witness not making claim under the policy;

33 (4) to the extent that workers' compensation benefits apply;

34 (5) when suit is filed against the uninsured motorist without no-
35 tice to the insurance carrier; and

36 (6) to the extent that personal injury protection benefits apply.

37 (f) An underinsured motorist coverage insurer shall have sub-
38 rogation rights under the provisions of K.S.A. 40-287 and amend-
39 ments thereto. If a tentative agreement to settle for liability limits
40 has been reached with an underinsured tortfeasor, written notice
41 must be given by certified mail to the underinsured motorist cov-
42 erage insurer by its insured. Such written notice shall include written
43 documentation of pecuniary losses incurred, including copies of all

1 medical bills and written authorization or a court order to obtain
2 reports from all employers and medical providers. Within 60 days
3 of receipt of this written notice, the underinsured motorist coverage
4 insurer may substitute its payment to the insured for the tentative
5 settlement amount. The underinsured motorist coverage insurer is
6 then subrogated to the insured's right of recovery to the extent of
7 such payment and any settlement under the underinsured motorist
8 coverage. If the underinsured motorist coverage insurer fails to pay
9 the insured the amount of the tentative tort settlement within 60
10 days, the underinsured motorist coverage insurer has no right of
11 subrogation for any amount paid under the underinsured motorist
12 coverage.

13 (g) As used in this section "motor vehicle" means every self-
14 propelled vehicle of a kind required to be registered in this state,
15 including any trailer, semitrailer or pole trailer designed for use
16 with such vehicle, but such term does not include a motorized
17 bicycle.

18 Sec. 2. K.S.A. 40-284 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after
20 its publication in the statute book.



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KANSAS

Office of CONSUMER CREDIT COMMISSIONER

Joan Finney
Governor

Wm. F. Caton
Commissioner

M E M O R A N D U M

TO: Rep. Bill Bryant, Chairman
House Financial Institutions and Insurance Committee

FROM: Wm. F. Caton, Consumer Credit Commissioner

DATE: January 6, 1995

RE: Statutory Amendments to the Kansas Uniform Consumer
Credit Code

I am respectfully requesting consideration to make statutory changes to the Kansas Uniform Consumer Credit Code (UCCC), specifically to K.S.A. 16a-2-201 (4) and K.S.A. 16a-2-401 (4). I am requesting deletion of language that no longer is pertinent since precomputed contracts are no longer permitted by the UCCC. When major changes were made to the UCCC two years ago to prohibit precomputed contracts, this office inadvertently overlooked deleting this language. It has created some confusion and should be stricken from the statute.

This proposed amendment is non-substantive and should not create any controversy by the lending industry or consumer.

WFC:dr

*Financial Inst & Ins
Attachment 2*

1-11-95

16a-1-303. (UCCC) Other defined terms. Other definitions appearing in this act and the sections in which they appear are:

"Location" Section 16a-2-309
 "Last day of the billing cycle" .. Section 16a-2-202 and 16a-2-402

History: L. 1973, ch. 85, § 13; Jan. 1, 1974.

Article 2.—FINANCE CHARGES AND RELATED PROVISIONS

Part 1 GENERAL PROVISIONS

16a-2-101. (UCCC) Short title. This article shall be known and may be cited as revised uniform consumer credit code finance charges and related provisions.

History: L. 1973, ch. 85, § 14; Jan. 1, 1974.

16a-2-102. (UCCC) Scope. Part 2 of this article applies to consumer credit sales. Parts 3 and 4 apply to consumer loans, including loans made by supervised lenders. Part 5 applies to other charges and modifications with respect to consumer credit transactions. Part 6 applies to other credit transactions.

History: L. 1973, ch. 85, § 15; Jan. 1, 1974.

KANSAS COMMENT, 1990

The U3C continues the distinction between loans and credit sales in consumer transactions, and sets separate finance charge rate ceilings for each. Part 2 of this article sets ceilings for consumer credit sales, including seller credit cards (see K.S.A. 16a-2-201 and 16a-2-202); part 4 sets ceilings for consumer loans, including lender credit cards (see K.S.A. 16a-2-401 and 16a-2-402). Part 5 regulates charges other than "finance charges." While this section refers to "part 6," this part of the official text of the U3C was omitted in Kansas.

16a-2-103. Computation of finance charges after January 1, 1994. On and after January 1, 1994, (a) The finance charges on consumer loans and consumer credit sales originated on and after January 1, 1994, shall be computed on the unpaid principal balances by the actuarial method.

(b) Notwithstanding any other provisions of this act, the finance charges on consumer loans or consumer credit sales originating prior to January 1, 1994, which computed such finance charges on a precomputed basis, shall be subject to the conditions, limitations and restrictions contained in the uniform consumer credit code as in effect on December 31, 1993, as such code relates to precomputed finance charges.

History: L. 1993, ch. 200, § 1; July 1.

Part 2

CONSUMER CREDIT SALES; MAXIMUM FINANCE CHARGES

16a-2-201. (UCCC) Finance charge for consumer credit sales other than open end credit. (1) With respect to a consumer credit sale, other than a sale pursuant to open end credit, a seller may contract for and receive a finance charge not exceeding that permitted by this section.

(2) The finance charge, calculated according to the actuarial method, may not exceed the equivalent of the following:

The total of:

(a) Twenty-one percent per year on that part of the unpaid balance of the amount financed which is \$1,000 or less;

(b) fourteen and forty-five hundredths percent per year on that part of the unpaid balance of the amount financed which is more than \$1,000.

(3) This section does not limit or restrict the manner of calculating the finance charge whether by way of add-on, discount, or otherwise, so long as the rate of the finance charge does not exceed that permitted by this section.

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed 10 days or more after that date, with the date of commencement of delivery or performance. ~~Differences in the lengths of months are disregarded and a day may be counted as 1/30th of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15 days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.~~

(5) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same finance charge on all amounts financed within a specified range. A finance charge so made does not violate subsection (2) if:

(a) When applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of finance charge exceeding the rate calculated according to paragraph (a) by more than 8% of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum finance charge of not more than \$5 when the amount financed does not exceed \$75, or not more than \$7.50 when the amount financed exceeds \$75.

(7) As an alternative to the rates set forth in subsection (2), the seller may contract for and receive a finance charge not exceeding 18% per year on the unpaid balances of the amount financed.

History: L. 1973, ch. 85, § 16; L. 1980, ch. 77, § 1; L. 1981, ch. 94, § 1; L. 1982, ch. 93, § 1; L. 1983, ch. 79, § 1; L. 1985, ch. 82, § 1; L. 1988, ch. 85, § 3; L. 1988, ch. 86, § 1; L. 1988, ch. 87, § 1; L. 1993, ch. 200, § 6; Jan. 1, 1994.

KANSAS COMMENT, 1990

1. Subsection (2) of this section establishes the following rate ceilings for closed-end consumer credit sales: (a) 21% on balances of \$1,000 or less; and (b) 14.45% on balances exceeding \$1,000. Alternatively, under subsection (8), the seller may charge a flat rate of up to 18% on all balances. The rate ceilings for open-end credit

KANSAS COMMENT, 1990

1. Subsection (a) allows a licensed lender to make supervised loans through a separate office located in a retail store unless the administrator finds that the arrangement would tend to conceal evasion of this act. An example of an operation which might be shut down by the administrator under this section is a loan office in a dealer's place of business to which credit buyers are referred in order to insulate the lender from defenses of the consumer. See K.S.A. 16a-3-405.

2. Subsection (b) prohibits a licensee from making supervised loans at the same location where he sells or leases goods. This rule is based on the assumption that any dual lender-seller operation will almost automatically lead to circumvention of the act. Tie-in sales of goods or services in connection with loans are flagrant violations of this act because they are carried on to evade rate ceilings. Exceptions are made for lender credit cards honored at a separate merchant's place of business, occasional sales of a licensee's business property, foreclosure sales, and sales by a lender licensed under both this act and the Kansas pawnbroker's law (K.S.A. 16-706 et seq.).

Part 4

CONSUMER LOANS; MAXIMUM
FINANCE CHARGES

16a-2-401. (UCCC) Finance charge for consumer loans; exempting loans served by an interest in land; nonrefundable origination fee. (1) With respect to a consumer loan, including a loan pursuant to open end credit, a lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding 18% per year on the unpaid balance of the amount financed not exceeding \$1,000 and 14.45% per year on that portion of the unpaid balance in excess of \$1,000.

(2) As an alternative to the rates set forth in subsection (1), with respect to a supervised loan made under a license issued by the administrator, including a loan pursuant to open end credit, a supervised lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding the equivalent of the greater of either of the following:

The total of: (a) Thirty-six percent per year on that part of the unpaid balance of the amount financed which is \$300 or less; and

(b) twenty-one percent per year on that part of the unpaid balance of the amount financed which is more than \$300, but does not exceed \$1,000; and

(c) fourteen and forty-five hundredths percent per year on that portion of the unpaid balance of the amount financed which is more than \$1,000; or

(d) eighteen percent per year on the unpaid balance of the amount financed.

(3) This section does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the finance charge does not exceed that permitted by this section. The finance charge may be contracted for and earned at the single annual percentage rate that would earn the same finance charge as the graduated rates when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method.

(4) The term of a loan for the purposes of this section commences on the date the loan is made. ~~Differences in the lengths of months are disregarded and a day may be counted as 1/30th of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15 days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.~~

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same finance charge on all amounts financed within a specified range. A finance charge so made does not violate subsections (1) and (2) if:

(a) When applied to the median amount within each range, it does not exceed the maximum amount permitted in subsections (1) and (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of finance charge exceeding the rate calculated according to paragraph (a) by more than 8% of the rate calculated according to paragraph (a).

(6) Notwithstanding subsections (1) and (2), a lender may contract for and receive a minimum finance charge of not more than \$5 when the amount financed does not exceed \$75, or not more than \$7.50 when the amount financed exceeds \$75.

(7) This section shall not apply to a loan secured by an interest in land the interest rate of which is governed by subsection (b) of K.S.A. 16-207, and amendments thereto, unless made subject hereto by agreement.

(8) Except for paragraph (a) of subsection 9, this section shall not apply to a loan secured by an interest in land subordinate to a prior mortgage and held by a lender other than the lender of the first mortgage, the interest rate of which is governed by subsection (b) or (h) of K.S.A. 16-207, and amendments thereto, unless made subject hereto by agreement.

(9) (a) In addition to the applicable finance charge or rate of interest prescribed by law, a supervised lender may contract for and receive a nonrefundable origination fee not to exceed 3% of the amount financed on any consumer loan secured by an interest in land, which fee shall be a nonrefundable, prepaid finance charge.

(b) In addition to the applicable finance charge permitted for consumer credit sales other than sales by way of open end credit or for consumer loans not secured by an interest in land, a creditor may contract for and receive, in connection with any such sale or loan, a nonrefundable origination fee in an amount not to exceed the lesser of 2% of the amount financed or \$100, which fee shall be a nonrefundable, prepaid finance charge.

History: L. 1973, ch. 85, § 27; L. 1974, ch. 91, § 1; L. 1975, ch. 126, § 1; L. 1980, ch. 76, § 9; L. 1980, ch. 77, § 3; L. 1981, ch. 94, § 3; L. 1982, ch. 94, § 1; L. 1983, ch. 79, § 3; L. 1985, ch. 82, § 3; L. 1986,

The Kansas Bankers Association

800 SW Jackson, Suite 1500
Topeka, KS 66612
913-232-3444 FAX 913-232-3484

1-11-95

TO: House Financial Institutions and Insurance Committee
FROM: Chuck Stones

Mr. Chairman and Members of the Committee:

The Kansas Bankers Association requests the introduction of three pieces of legislation:

1) UCC Designation of Partnership/Sole Proprietorship by Small Business -

There is presently some confusion as to what constitutes a partnership versus a sole proprietorship under state law. This becomes a particular problem for banks when perfecting a security interest under the Uniform Commercial Code. This proposed legislation would allow a bank lending money to a married couple who are jointly engaged in business to file a financing statement in the names of the individual debtors.

2) Use of Electronic Reproduction Devices -

State law requires that banks retain records for specific periods of time. the retention of those records has been made more cost-efficient with technology changes such as optical disk storage. Current law in the banking code does not allow for the use of such storage technology. This proposed legislation would do so.

3) Confidentiality of Compliance Records and Files -

Banks are required to comply with an enormous number of statutes and regulations. In order to compile meaningful compliance information they must be able to make candid internal evaluations of their performance without the fear that such information may be used against them in legal proceedings. This proposed legislation is a model confidentiality law which has been adopted or is being considered by a number of states.

Thank you for your consideration of these bill requests.

*House 2-1-95
Attachment 3
January 11, 1995*

Sec. 2. K.S.A. 1993 Supp. 84-9-402 is hereby amended to read as follows: 84-9-402. (1) A financing statement may be in a form prescribed by the secretary of state and shall give the names of the debtor and the secured party, shall be signed by the debtor, shall give an address of the secured party from which information concerning the security interest may be obtained, shall give a mailing address of the debtor and shall contain a statement indicating the types, or describing the items, of collateral. When the financing statement is filed according to paragraph (c) of subsection (1) of K.S.A. 84-9-401, and amendments thereto, it shall contain the social security number (SSN) or the federal employer identification number (FEIN) of the debtor, *except that when the debtor is a sole proprietorship, the financing statement shall contain only the social security number (SSN) of the debtor.* A statement of collateral in a financing statement is adequate if it generally identifies goods by one or more of the classifications listed in K.S.A. 84-9-109, and amendments thereto, or generally identifies other collateral by one or more of the following classifications: fixtures, documents, instruments, general intangibles, chattel paper or accounts. A statement of collateral in a financing statement shall not be deemed inadequate solely because it is broader than, or otherwise differs from, that found in the security agreement. A description of the location of the collateral is not necessary to an adequate statement except insofar as a description of location is specifically required by the uniform commercial code. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of K.S.A. 84-9-103, and amendments thereto, or when the financing statement is filed as a fixture filing (K.S.A. 84-9-313, and amendments thereto) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor and contains the social security number (SSN) or the federal employer identification number (FEIN) of the debtor when filed according to paragraph (c) of subsection (1) of K.S.A. 84-9-401, and amendments thereto. A carbon, photographic or other reproduction of a signed security agreement or financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state. *The secretary of state may adopt rules and regulations for the electronic filing of a financing statement.*

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances;

(b) proceeds under K.S.A. 84-9-306, and amendments thereto, if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral;

(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).

follows to comply with subsection (1):

Name of Debtor (or assignor) _____

Address _____

Social Security number (SSN) _____; or

Federal employer identification number (FEIN) _____

Name of secured party (or assignee) _____

Social security number (SSN) _____; or

Federal employer identification number (FEIN) _____

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 the secured party except that, if any amendment changes the classification or the value of collateral, the amendment shall be signed by both the debtor and the secured party. The social security number (SSN) or the federal employer identification number (FEIN) of the debtor must be shown on any amendment filed according to paragraph (c) of subsection (1) of K.S.A. 84-9-401, and amendments thereto. 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 K.S.A. 84-9-103, and amendments thereto, or a financing statement filed as a fixture filing (K.S.A. 84-9-313, and amendments thereto) 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.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. In addition to the regular recording and satisfaction fees with respect to the mortgage, there is required a filing fee of \$6 plus \$1 for each additional page, or an amount fixed by rules and regulations adopted by the secretary of state on or after the effective date of this act of not to exceed \$10 plus \$1 for each additional page.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate amendment to the financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

Where married debtors are jointly engaged in business and it is unclear whether a partnership exists, the financing statement may be filed in the names of the individual debtors.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(9) Any financing or other statement or security agreement filed pursuant to part 4 which contains a copy, however made, of the signature of a secured party or his representative or of a debtor or of his representative is "signed" by the secured party or the debtor as the case may be.

9-1121. Microphotographic reproduction of records and papers; evidence. Any bank or trust company or savings and loan associations may cause any or all records, files, instruments, documents, or papers of any kind at any time in its custody, possession, or files to be reproduced by the microphotographic process, and Any reproduction so made shall have the same force and effect as the original thereof, and shall be admitted in evidence before any court or governmental commission, bureau, agency, or department equally with the original, and without the necessity of proving inability to produce the original thereof.

History: L. 1951, ch. 124, § 1; June 30.

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Compliance Privilege

(a) For the purposes of this act,

(1) "Bank" means a state-chartered or federally-chartered bank, trust company, or bank holding company as defined in KSA 9-519(a)(1) and amendments thereto, located in this state.

(2) "Compliance Review Committee" means:

- (i) An audit, loan review, or compliance committee appointed by the Board of Directors of a bank, or
- (ii) Any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee.

(3) "Compliance Review Documents" means documents prepared for or created by a compliance review committee.

(4) "Loan Review Committee" means a person or group of persons who, on behalf of a bank, reviews loans held by the institution for the purpose of assessing the credit quality of the loans, compliance with the institution's loan policies, and compliance with applicable laws and regulations.

(5) "Person" means an individual, group of individuals, board, committee, partnership, firm, association, corporation, or other entity.

(b) This act applies to a compliance review committee whose functions are to evaluate and seek to improve loan underwriting standards, asset quality, financial reporting to federal or state regulatory agencies, or compliance with federal or state statutory or regulatory requirements.

(c) Except as provided in subsection (d) of this act:

(1) Compliance review documents are confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee; and

(2) Compliance review documents delivered to a federal or state governmental agency remain confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee.

(d) Subsection (c) of the act does not apply to any information required by statute or regulation to be maintained by or provided to a governmental agency while the information is in the possession of the governmental agency to the extent applicable law expressly authorizes its disclosure.

(e) This act may not be construed to limit the discovery or admissibility in any civil action of any documents that are not compliance review documents.

9-1118. Oath of directors and president.

Each director shall take and subscribe an oath that such director will administer the affairs of such bank or trust company diligently and honestly and that such director will not knowingly or willfully permit any of the laws relating to banks or trust companies to be violated ~~and~~ each director and the president of a bank or trust company shall swear that such director or president is the owner in good faith of shares of common stock having a par value of at least \$500 of such bank or trust company ~~or in the parent corporation of such bank or trust company standing in such director's or president's name~~ and that the same has not been pledged or assigned, except as authorized by K.S.A. 9-1117, and amendments thereto. A copy of such oath shall be filed with the commissioner.

. In addition,

that controls, directly or indirectly

History: L. 1947, ch. 102, § 47; L. 1972, ch. 34, § 1; L. 1975, ch. 44, § 21; L. 1979, ch. 44, § 2; L. 1982, ch. 50, § 3; L. 1989, ch. 48, § 31; July 1.

*Amended first time
Attachment #
January 11, 1995*

•9-1114. Board of directors of bank or trust company; number; qualifications; election; increase, when; vacancies; forfeiture of office; annual meeting. The business of any bank or trust company shall be managed and controlled by its board of directors and this shall include the authority to provide for bonus payments, in addition to ordinary compensation for any or all of its officers and employees.

The board shall consist of not less than five nor more than 25 members, all of whom shall be stockholders of the bank or trust company or of the parent corporation of the bank or trust company, and who shall be elected by the stockholders at any regular annual meeting which shall be held during the first 120 days of each calendar year. If the number of directors elected is less than 25, the number of directors may be increased so long as the total number does not exceed 25 and when the number is increased the first additional directors may be elected at a special meeting of the stockholders. The directors shall be elected in the manner provided in the general corporation code. Vacancies in the board of directors may be filled in the manner provided in the general corporation code. A majority of the directors shall be residents of this state. Any director of any bank or trust company who shall become indebted to such bank or trust company on any judgment or ~~charged off indebtedness~~ shall forfeit such person's position as director and such vacancy shall be filled as provided by law.

History: L. 1947, ch. 102, § 43; L. 1957, ch. 73, § 1; L. 1959, ch. 59, § 1; L. 1975, ch. 44, § 19; L. 1976, ch. 57, § 1; L. 1983, ch. 46, § 3; L. 1989, ch. 48, § 27; July 1.

whose indebtedness is
charged off or forgiven

1143 Supp

• **9-1115.** Officers of bank or trust company; election; term; bond; forfeiture of office. The board of directors may elect a chairperson and shall elect a president from its members and shall elect one or more vice-presidents, a secretary and a cashier. The office of president and cashier shall not be filled by the same person. Such officers shall hold their offices for a term of not to exceed one year and until their successors are elected and qualified. The board of directors shall require all officers and employees having the care or handling of the funds of the bank or trust company to give a good and sufficient bond to be executed by an approved corporate surety authorized to do business in this state. The amount of the bond shall be approved by the board of directors and the form of such bond shall be approved by the board of directors and the commissioner. Such bond shall be held by the commissioner. The costs of such bonds shall be paid by the bank or trust company. Any officer of any bank or trust company who shall become indebted to such bank or trust company on any judgment or ~~charged off indebtedness~~ shall forfeit the office and the board of directors shall fill the vacancy.

whose indebtedness is
charged off or forgiven

History: L. 1947, ch. 102, § 44; L. 1961, ch. 64, § 1; L. 1973, ch. 47, § 1; L. 1989, ch. 48, § 28; L. 1992, ch. 33, § 1; July 1.

CHAPTER 28

SENATE BILL No. 538

AN ACT concerning banks and banking; transfer of assets and liabilities in certain cases; amending K.S.A. 1993 Supp. 9-1724 and repealing the existing section.

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

Section 1. K.S.A. 1993 Supp. 9-1724 is hereby amended to read as follows: 9-1724. (a) Before any bank can merge, consolidate with or transfer its assets and liabilities under the provisions of article 67 or article 68 of chapter 17 of the Kansas Statutes Annotated, the bank concerned in such merger, consolidation or transfer shall file, or cause to be filed, with the state banking commissioner, certified copies of all proceedings had by its directors and stockholders relating to such merger, consolidation or transfer. The stockholders' proceedings shall show that a majority of the stockholders voted in favor of the merger, consolidation or transfer. The stockholders' proceedings shall also contain a complete copy of the agreement made and entered into by the bank, with reference to such merger, consolidation or transfer. This act shall not apply to the merger, consolidation or transfer of assets and liabilities of a bank when the surviving entity is a national banking association or other federally chartered financial institution.

Upon the filing of the stockholders and directors' proceedings, the commissioner shall make an investigation of each party to the merger, consolidation or transfer to determine whether:

- (1) The interests of the depositors, creditors and stockholders of the bank are protected;
- (2) the merger, consolidation or transfer is in the public interest; and
- (3) the merger, consolidation or transfer is made for legitimate purposes.

The commissioner's consent to or rejection of such merger, consolidation or transfer shall be based upon such investigation. No merger, consolidation or transfer shall be made without the consent of the commissioner. At the time of filing the request for merger, consolidation or transfer, a fee shall be paid to the commissioner in an amount established by rules and regulations adopted by the commissioner.

Notice of the merger, consolidation or transfer shall be published at least once each week for three consecutive weeks before or after the merger, consolidation or transfer is to become effective, at the discretion of the commissioner, in a newspaper of general circulation published in each city or county in which the bank is located and a certified copy of the notice shall be filed with the commissioner.

outstanding voting stock was

The provisions of

, except that the bank shall provide written notification to the state bank commissioner of such a merger, consolidation or transfer of assets and liabilities at least 10 days prior to its consummation. In addition, not more than 15 days following such a merger, consolidation or transfer of assets and liabilities, the bank shall surrender its state certificate of authority or charter and shall certify in writing that the proper instruments as required by the General Corporations Code, Chapter 17 of the Kansas Statutes Annotated, have been filed in accordance with K.S.A. 17-6003 and amendments thereto.

p-11

(b) As used in this section, "bank" means a state bank or trust company incorporated under the laws of Kansas.

Sec. 2. K.S.A. 1993 Supp. 9-1724 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 22, 1994.

CHAPTER 29

SENATE BILL No. 550

AN ACT concerning certificate of birth; amending K.S.A. 65-2409a and repealing the existing section; also repealing K.S.A. 65-2409.

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

Section 1. K.S.A. 65-2409a is hereby amended to read as follows: 65-2409a. (a) A certificate of birth for each live birth which occurs in this state shall be filed with the state registrar within five days after such birth and shall be registered by such registrar if such certificate has been completed and filed in accordance with this section. If a birth occurs on a moving conveyance, a birth certificate shall indicate as the place of birth the location where the child was first removed from the conveyance.

(b) When a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file such certificate with the state registrar. The physician in attendance *or, in the absence of the physician, the person in charge of the institution or that person's designated representative* shall certify to the facts of birth and provide the medical information required by the certificate within five days after the birth. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority: (1) The physician in attendance at or immediately after the birth, or in the absence of such a person; (2) any other person in attendance at or immediately after the birth, or in the absence of such a person; or (3) the father, the mother or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(c) If the mother was married at the time of either conception or birth, or at any time between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as

4-5

9-309. Stockholder vote for conversion to national bank; proceedings. (Any state bank now or hereafter chartered may at any time, upon the affirmative vote of not less than two-thirds of its outstanding voting stock, become a national bank but in all the proceedings incident thereto the same shall be governed by the same rulings, laws and regulations as may be in force and effect under federal law and authority governing national banks becoming state banks.)

History: L. 1947, ch. 102, § 12; June 30.

(a)

(b) The state bank shall provide written notice to the state bank commissioner within 10 days after the date the state bank receives preliminary approval to convert to a national banking association from the Office of the Comptroller of the Currency. In addition, not more than 15 days following the issuance of a charter certificate to the bank by the Comptroller, the bank shall surrender its state certificate of authority or charter and shall certify in writing that notice of the conversion has been given to the corporations division of the Secretary of State's office.

9-508. Transmission of money; definition. As used in this act, the word "person" shall mean any individual, partnership, association, joint stock association, trust, corporation, or any other form of business enterprise.

History: L. 1967, ch. 73, § 1; July 1.

[authorized to do
business in this state.]

9-1717. Prohibition against felon from serving as director, officer or employee. (a) Except with the written consent of the commissioner, no person shall serve as a director, officer or employee of a bank who has been convicted, or who is hereafter convicted, of any felony or any crime involving dishonesty or a breach of trust.

or trust company

(b) Any bank which willfully violates subsection (a), shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of \$100 for each day the violation continues.

or trust company

History: L. 1984, ch. 48, § 1; July 1.

by this act in any one calendar year. The commissioner also may accept any report obtained by the insurance corporation, the federal reserve bank or private insurer within a reasonable time relative to the condition of any bank or trust company in lieu of any report required by this act.

The commissioner shall furnish to the insurance corporation or private insurer, or to any officer or examiner thereof, a copy of any or all examination reports made by the commissioner, or the commissioner's examiners, of any bank or trust company insured by the corporation or insurer, and any or all reports made to the commissioner by any bank or trust company insured by such corporation or insurer. The commissioner may disclose to the insurance corporation or private insurer, or any official or examiner thereof, any and all information contained in the commissioner's office concerning the condition of affairs of any bank or trust company insured by such corporation or insurer.

The commissioner may furnish to the federal reserve bank, office of the comptroller of currency, the federal home loan bank, ~~the Kansas savings and loan department~~ and other state bank regulatory agencies and savings and loan regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports made by the commissioner, or the commissioner's examiners of any bank or trust company which is a member or nonmember of the federal reserve system and any or all reports made to the commissioner by any bank or trust company which is a member of the federal reserve system. The commissioner may disclose to the federal reserve bank, office of the comptroller of currency, the federal home loan bank, ~~the Kansas savings and loan department~~ and other state bank regulatory agencies and savings and loan regulatory agencies or any officer or examiner thereof, any and all information contained in the commissioner's office concerning the condition of affairs of any bank or trust company which is a member or nonmember of the federal reserve system. Nothing in this act shall be construed to limit the powers of the commissioner with reference to examinations and reports required by this act.

History: L. 1947, ch. 102, § 61; L. 1975, ch. 44, § 23; L. 1975, ch. 45, § 5; L. 1985, ch. 56, § 4; L. 1987, ch. 54, § 7; May 7.

Source or prior law:
9-604.

9-1303. Exchange of examinations and reports. The state bank commissioner hereby is authorized to accept any report of examination of a state bank or trust company made within a reasonable period by the federal deposit insurance corporation or its successor, by the federal reserve bank or by the certified public accountant or independent auditor auditing the accounts of any bank or trust company insured by a private insurer, as authorized under the provisions of this act, but only one such report of examination shall be accepted in lieu of any examination required

The commissioner may furnish to the state treasurer a copy of any or all exam information relating specifically to apparent violations of the Kansas Uniform Unclaimed Property Act.

(K.S.A.)

9-1704. Reports to commissioner, publication. Each bank and trust company shall report at least three reports to the commissioner during each year, the same to be done upon determination of the commissioner, who also shall have authority to require additional reports from each bank and trust company, when such commissioner deems it advisable. The form of all such reports shall be prescribed by the commissioner. The reports shall be verified by the president, chief executive officer or cashier and attested by at least three directors of the bank or trust company none of whom shall have verified the report. The report shall show in detail the resources and liabilities of the bank or trust company at the close of business upon the date determined by the commissioner and such report shall be forwarded to the commissioner. A copy of the report, or as much as the commissioner may require, shall be published in a newspaper, published in or having a general circulation in the place where the bank or trust company is located, within 10 days after the report is forwarded to the commissioner and the expense of such publication shall be paid by the bank or trust company.

History: L. 1947, ch. 102, § 90; L. 1975, ch. 44, § 32; L. 1984, ch. 48, § 14; July 1.

Source or prior law:
9-121.

Strike through all

9-1704. Reports to the commissioner; publication. (a) Each bank or trust company shall be required to make a report to the commissioner at any time upon the commissioner's request. Such reports shall be in a form prescribed by the commissioner and shall be verified by the president, chief executive officer or cashier and attested by at least three directors of the bank or trust company, none of whom shall have verified the report. The report shall show in detail the assets and liabilities of the bank or trust company at the close of business upon the date determined by the commissioner and such report shall be forwarded to the commissioner. The commissioner may require a copy of the report, or a portion thereof, to be published in a newspaper, published in or having a general circulation in the place where the bank or trust company is located, within 10 days after the report is forwarded to the commissioner. The expense of publication shall be paid by the bank or trust company.

(b) Each trust department of a bank or trust company shall report to the commissioner all assets held by the trust department or trust company in a fiduciary capacity as of December 31 of each year. The report shall be in the form prescribed by the commissioner, and shall be filed with the commissioner by January 30 of each year.

for each application. The moneys in each such account shall be used only to pay the expense of the examination and investigation to which it relates, and any unused portion of such deposit shall be transferred to the bank commissioner fee fund.

History: L. 1947, ch. 102, § 106; L. 1971, ch. 52, § 1; L. 1975, ch. 44, § 39; L. 1981, ch. 48, § 48; L. 1992, ch. 62, § 7; July 1.

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9-1804. Place of business; change of; application, investigation and approval; expenses of examination and investigation; payment; use and disposition of moneys received. No bank or trust company incorporated under the laws of this state shall change its place of business, from one city or town to another or from one location to another within the same city or town, without the prior approval of the state banking board. Any such bank or trust company desiring to change its place of business shall file written application with the board in such form and containing such information as the board shall require. The board shall examine and investigate the application, and shall inquire into the public necessity for such bank or trust company in the community wherein it is proposed to locate the same, and shall approve or disapprove the application. The expenses of such examination and investigation shall be paid by the bank or trust company which shall deposit with the commissioner a fee in an amount established by rules and regulations adopted by the commissioner. Any members of the board who make such an examination or investigation shall be paid the sum of \$35 per diem for the time they actually are engaged in performing their duties as members of such board, and in addition shall be paid all their actual and necessary expenses incurred in the performance of such duties from such funds. The commissioner shall remit all amounts received under this section to the state treasurer who shall deposit the same to

Notice of the filing of such application shall be published by the applicant on the same day of two consecutive weeks in a newspaper of general circulation in the county where the applicant proposes to relocate. The second publication of the notice shall be made not less than 14 days nor more than 30 days prior to the board's initial consideration of the application.

STATE OF KANSAS
BILL GRAVES
GOVERNOR

Frank D. Dunnick
Bank Commissioner

Judi M. Stork
Deputy Commissioner

Kevin C. Glendening
Assistant Deputy Commissioner



William D. Grant, Jr.
General Counsel

Ruth E. Glover
Administrative Officer

OFFICE OF THE
STATE BANK COMMISSIONER

HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

January 11, 1995

I. BANKING STRUCTURE

- Office of the Comptroller of the Currency - They charter, regulate and examine national banks.
- Office of the State Bank Commissioner - We charter, regulate, and examine state chartered banks.
- Federal Deposit Insurance Corporation - They insure the deposits in all Kansas banks, both state and national. They also have the power to examine both state and national banks. They routinely examine state banks which are not Federal Reserve members.
- Federal Reserve Bank - They regulate and examine state banks which are members of the Federal Reserve System. They also regulate and examine bank holding companies. (All national banks are required to be members of the Federal Reserve but are not examined by the Federal Reserve.)

II. DUTIES AND RESPONSIBILITIES OF THE OFFICE OF THE STATE BANK COMMISSIONER

- Regulate and supervise the state chartered banks, savings and loan associations and trust companies of Kansas.
- Statutory requirement to examine such institutions at least once every 18 month period.
- Currently 336 state chartered banks, 9 trust companies, 1 savings and loan association, and 88 trust departments of banks under our supervision.
- Examiners review all aspects of an institution and provide a written report to our office. The report is reviewed by office staff and by the Commissioner and returned to the bank in final form.
- A rating of one to five is assigned to each bank based on their condition. This is called a CAMEL rating. (Capital, Assets, Management, Earnings, Liquidity) The rating is confidential.
- Review and approve various applications - merger of two banks, new branch location, change of name, bank acquisition by out of state holding company, change of control of a bank, request for trust powers, bank relocations, etc.

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III. STRUCTURE OF THE DEPARTMENT

-Nine member banking board - six bankers, three public interest - which meets monthly in our office. They serve in an advisory capacity.

-Staff of 74 employees which includes 53 commercial bank examiners and four trust examiners. Also employ four review examiners, an applications review examiner, two attorneys, a legal assistant, an administrative officer, and various other clerical help.

-Field office staff is located in seven cities in Kansas - Overland Park, Topeka, Wichita, Salina, Hays, Chanute and Dodge City.

-Individuals who may appear before this committee:

Frank D. Dunnick, Bank Commissioner	William D. Grant, Jr., General Counsel
Judi M. Stork, Deputy Commissioner	Kevin C. Glendening, Asst. Deputy Commissioner

IV. INTERACTION WITH THE HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

-During the course of the year we find changes that need to be made to the law in order to clarify the intent or to repeal outdated practices. This information is obtained via our examiners, bankers, or the general public requesting clarification of the statutory meaning. We compile this information until the legislative session and then present our recommendations to this committee.

-The agency focuses on the issue of safety and soundness of the institutions we regulate. When we make recommendations for change, the safe operation of a bank and the protection of the depositors' funds are the focus of our proposals. Unless legislation will have an impact on the safe and sound operation of a financial institution, our agency, most generally, remains neutral on the issue, i.e., structure issues.