

Approved: January 23, 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 18, 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: John Smith, Department of Credit Unions  
Steve Kearney, Kansas Physical Therapists Association  
Jeff Sonnich, KS-Neb-OK League of Savings  
Judy Stork, Office of State Bank Commissioner

Others attending: See attached list

John Smith, Administrator of the Credit Union Department for the State of Kansas, appeared before the Committee and gave an overview of the responsibilities of his department (Attachment 1).

Steve Kearney, representing the Kansas Physical Therapy Association, requested legislation be introduced which would remove physical therapists from the Health Care Stabilization Fund. They have had no claims filed since the inception of the fund in 1976. Their contribution has been .24% of the surcharge for the fund (Attachment 2).

Representative Cox moved that the request from the physical therapists to be introduced into legislation. Representative Wilson seconded the motion. Motion carried.

Jeff Sonnich, Kansas, Nebraska, Oklahoma League of Savings Institutions, asked for introduction of a bill which would allow Kansas lending institutions delegated underwriting authority to place mortgage guaranty insurance (Attachment 3). Kansas is the only state in the nation that does not allow lenders delegated underwriting authority.

Representative Merritt moved that the requested changes be introduced into legislation. Representative Gilbert seconded the motion. Motion carried.

Jeff Sonnich, Kansas, Nebraska, Oklahoma League of Savings Institutions, then requested introduction of legislation which would allow Kansas and Kansas lending institutions the ability to effectuate the release of a mortgage when a mortgagee refuses or neglects to enter satisfaction (Attachment 4). This would allow a mortgagor (borrower) or a lender who is "paying off" an existing loan to cause entry of satisfaction by providing proof of payment, a pay-off statement sent by the mortgagee dated within 45 days of the date of indebtedness, or a certificate or affidavit sent by certified or registered mail showing written demand for the mortgage release. Mortgage lenders in this state need an alternative system for obtaining mortgage releases when extended delays occur. Both the Banking and Title Insurance Associations have indicated interest in the passage of this legislation.

Representative Wilson moved for this introduction of this proposal into legislation. Motion was seconded by Representative Vickery. Motion carried.

Judy Stork, Office of the State Bank Commissioner, shared with the Committee a film entitled "Nationwide Banking and Interstate Branching: The Challenge for the States." (A copy of this film is on file in Legislative Research.)

**Hearing on HB 2071--Transmission of money**

Judy Stork testified in support of the bill which would require any person who is selling money orders in the state be authorized by the Secretary of State's office to do business in this state (Attachment 5). This

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527S-S Statehouse, at 9:00 a.m. on January 18, 1995.

authorization would require payment of fee for licensing.

There were no opponents appearing and the Hearing was declared closed.

**Hearing on HB 2074--Relating to banks and banking, conversion, merger, consolidation or transfer of assets and liabilities; requiring certain notification**

Judy Stork testified as a proponent of the bill which would require notification to the Office of the State Bank Commissioner when a state chartered bank either converts to or is merged into a national bank (Attachment 5). Currently there is no requirement for such notification thus banks who no longer exist as state chartered institutions are being assessed by the Bank Commissioner's office for an annual fee because they are unaware of the merger/conversion. These fees should be collected prior to the merger/conversion. No penalty provision is contained within the bill.

Mrs. Stork requested this proposed legislation become effective upon publication in the Kansas Register to eliminate confusion that may occur when establishing assessments in June for the coming year.

No opponents appeared and the Hearing was declared closed.

Representative Welshimer moved for the approval of the minutes of January 10 and 11, 1995. Representative Gilbert seconded the motion. Motion carried.

Chairperson Bryant thanked Bill Sneed for providing insurance primers for Committee members.

The meeting was adjourned at 4:35 p.m. The next meeting is scheduled for January 19, 1995.

# KANSAS STATE DEPARTMENT OF CREDIT UNIONS

The Kansas State Department of Credit Unions (KSDCU) is an executive branch agency of Kansas state government which reports directly to the Governor. The KSDCU was established in 1968 under K.S.A. 17-2234. Information relating to the Department and credit unions in general may be found in K.S.A. 17-2201 through K.S.A. 17-2267.

The Credit Union Administrator, in consultation with the Kansas State Credit Union Council, administers KSDCU's examination and supervision of Kansas chartered credit unions. The department has a staff of seven financial examiners, one secretary III, one keyboard operator III, one office review examiner, one chief financial examiner and the unclassified position of Credit Union Administrator.

As outlined in the *Governor's Report on the State of Kansas Budget*, the primary objectives of the KSDCU are:

- To examine all state-chartered credit unions at least once every eighteen months.
- To assure that state-chartered credit unions comply with state laws, federal laws, and the department's rules and regulations.

There are 124 natural person and three corporate credit unions (which includes one service credit union) chartered by the state of Kansas.

The KSDCU is funded exclusively by fees collected from credit unions. The authority and method for the establishment of fees is found in K.S.A. 17-2206. Estimated gross fee revenue for FY 1994 was \$778,969, with 20% or \$155,794 transferred to the general fund, leaving an operating expense budget of \$645,620.

All Kansas chartered credit unions are insured through the National Credit Union Share Insurance Fund (NCUSIF). The Department through the National Association of State Credit Union Supervisors (NASCUS) has entered into a working agreement with the National Credit Union Administration (NCUA), the federal regulator and insurance fund manager to more effectively and efficiently oversee the safety and soundness of Kansas chartered credit unions.

*Haase Financial Services*  
*Attachment 1*  
*1-18-95*

# **KANSAS STATE DEPARTMENT OF CREDIT UNIONS**

A number of examinations performed by the Department are joint examinations with the NCUA. The Department also responds to a large number of consumer complaints.

The worlds largest credit union with assets in excess of \$19 billion, U.S. Central Credit Union, operates under the supervision of the Department and is referred to as the "bankers bank" for credit unions.

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## **KANSAS STATE CREDIT UNION COUNCIL**

The Credit Union Council is a state governmental body, appointed by the Governor and confirmed by the Kansas Senate, which works with the Credit Union Administrator to ensure the effective operation of the Kansas State Department of Credit Unions.

The Credit Union Council meets at least quarterly. The Council serves as an advisor to the Administrator on issues and needs of credit unions.

Credit Union Council members receive no salaries for their public service on the Council. K.S.A. 17-2235 does provide for compensation, subsistence allowances, mileage and other expenses (as provided in K.S.A. 75-3223) when attending meetings of the Council or an authorized subcommittee meeting.

The Credit Union Council appointments are subject to confirmation of the Senate (K.S.A. 4315b). The process of confirmation involves an appearance before the Senate Financial Institutions and Insurance Committee during the legislative session and requires an affirmative recommendation from that committee and a majority affirmative vote of the full Senate.

# KANSAS STATE DEPARTMENT OF CREDIT UNIONS

Credit unions are non-profit, cooperative organizations. Currently 456,232 Kansans are members of Kansas credit unions.

In closing, we are extremely pleased with the status of the credit union industry today. Credit union profits remain stable, capital and reserves have improved, asset growth is normal to above average, loan volume is increasing and the service of member elected directors and volunteer committees continue to improve.

To: House Committee on Financial Institutions and Insurance

From: Steve Kearney, Legislative Counsel for the Kansas Physical Therapy Association

Re: Removal from the Health Care Stabilization Fund

Date: January 18, 1995

Chairman Bryant and Members of the Committee:

Thank you for the opportunity to appear before you today. I am here to request the introduction of legislation on behalf of the Kansas Physical Therapy Association that would remove Physical Therapists from the Health Care Stabilization Fund.

During the summer months the Health Care Stabilization Fund Board passed a motion no longer requiring Physical Therapists participation in the Fund. A copy of those minutes are attached.

I have also attached a letter from Rita Noll, Senior Attorney with the Health Care Stabilization Fund, dated December 14, 1994 which more fully explains this issue. I have also attached a chart supplied by Ms. Noll which shows that the Physical Therapists have had no claims filed since the inception of this fund in 1976. The Physical Therapists contribute only .24% of the surcharge for the fund.

I respectfully request the introduction of legislation that would remove the Physical Therapists from the Health Care Stabilization Fund. Thank you for your consideration in this matter.

*House TP's  
Attachment 2  
1-18-95*



STATE OF KANSAS

# KANSAS INSURANCE DEPARTMENT

420 S.W. 9th  
Topeka 66612-1678 913-296-3071

1-800-432-2484  
Consumer Assistance  
Division calls only

RON TODD  
Commissioner

December 14, 1994

MR STEVE KEARNEY  
P O BOX 2428  
TOPEKA KS 66601

RE: Physical Therapists

Dear Mr. Kearney:

Finally I provide to you the information you had requested regarding physical therapists.

Enclosed are copies of minutes of the Health Care Stabilization Fund Board of Governors meetings held July 28th and August 25th during which removing physical therapists from the Fund was discussed. Also enclosed is a sheet that shows how much has been paid from the Fund for each health care provider group. No money has been paid out on behalf of PTs. Of the total amount of surcharge moneys paid into the Fund, 0.24% of that amount has been paid by physical therapists.

You also inquired about the Fund's claims experience regarding physical therapists. Since the inception of the Fund in 1976, the Fund has been notified of seven law suits naming eight physical therapists as defendants (one suit named two PTs). In every case the physical therapist was not the only defendant, also named were other health care providers such as a hospital or M.D.

The Fund has never paid any money, or incurred any expenses, on behalf of a physical therapist. The Fund has been notified of only one instance (of the eight claims made against PTs) in which a primary insurance carrier paid money to settle a claim.

I hope this information is helpful. Let me know if we can be of further assistance.

Very truly yours,

Rita L. Noll, Senior Attorney  
Health Care Stabilization Fund

RLN:st  
LE2720  
Enclosures

8/24/94 Review of HCSE Paid Losses and Surcharge Payments by Type of Provider

AGENCY PROVIDER TYPE	SETTELMENTS	INTEREST PAID	EXPENSES PAID	TOTAL LOSSES	% of Paid Losses	% of Surcharge Paid-In
110 M.D.	\$144,603,145	\$6,002,701	\$14,059,625	\$164,665,471	77.08%	69.02%
120 D.O.	\$7,661,437	\$0	\$1,165,226	\$8,826,663	4.13%	4.04%
130 Chiropractors	\$2,434,174	\$0	\$74,110	\$2,508,284	1.17%	1.31%
140 Podiatrists	\$58,473	\$0	\$39,471	\$97,944	0.05%	0.37%
→ 150 Reg. Phys. Ther.	\$0	\$0	\$0	\$0	0.00%	0.24%
160 Dentist-Anesthet.	\$335,611	\$0	\$52,803	\$188,414	0.09%	0.68%
200 HMO	\$0	\$0	\$2,958	\$2,958	0.00%	0.67%
All 300's Hospitals & Facilities	\$17,531,075	\$1,523,893	\$1,285,031	\$20,339,999	9.52%	17.42%
400 Pharmacists	\$150,000	\$0	\$2,012	\$152,012	0.07%	0.25%
500 Optometrists	\$95,000	\$0	\$13,177	\$108,177	0.05%	0.18%
600 Nurse Anesthetists	\$3,378,648	\$1,296,701	\$519,163	\$5,194,512	2.43%	2.36%
700 Prof. Corps.	\$5,576,883	\$401,743	\$574,765	\$6,553,391	3.07%	4.06%
710 Not-for-Profit Corps.	\$2,614,597	\$44,952	\$229,950	\$2,889,499	1.35%	See Prof. Corps.
800 Partnerships	\$1,457,544	\$584,461	\$52,501	\$2,094,506	0.98%	See Prof. Corps.
999 Misc.	\$0	\$0	\$898	\$898	0.00%	
				\$213,622,728		

8-13



MINUTES OF THE AUGUST 25, 1994 MEETING  
OF THE BOARD OF GOVERNORS  
OF THE  
HEALTH CARE STABILIZATION FUND

The August 25, 1994 meeting of the Board of Governors of the Health Care Stabilization Fund was called to order at 1:06 p.m., chaired by Ron Todd, Commissioner of Insurance.

The following members were in attendance: Ms. Sara Ullman, Ms. Wilma Naethe, Dr. James Lueger, Ms. Carolyn Bloom, Mr. Robert Ohlen, Dr. George Learned, Dr. Ross Shook, Dr. John Young and Dr. John Hill. Present from the Fund were Claire McCurdy, Stacy Moorhead, Bill Wempe, Bob Hayes and Rita Noll. Stacie Tuell, Secretary for the Fund, took the minutes of the meeting.

The minutes of the July 28, 1994, meeting were approved. (Note: a correction in attendance has since been made: Dr. James Lueger was not present, Dr. George Learned was present.)

Rita notified the Board that all requests for increased coverage and tail coverage exemption from the July 28, 1994, meeting were given final approval after the review by Dr. John Hill.

As a matter of new business, the motion presented by Carolyn Bloom at the July 28, 1994, meeting regarding registered physical therapists being changed from their present health care provider status under the law (i.e. being removed from the Health Care Stabilization Fund), as was done with the optometrists and pharmacists in 1991 was discussed by the Board. Bob Hayes presented Board members with his report of Health Care Stabilization Fund paid losses and surcharge payments by registered physical therapists in comparison to all other health care providers. Information presented in his report included provider type, settlement amounts, interest paid, expenses paid, total losses, percentage of paid losses and percentage of surcharge paid-in. After discussion and review, the Board moved to support the motion by the registered physical therapists to no longer be subject to the mandatory professional liability coverage requirements and participation of the Health Care Stabilization Fund. This motion was seconded and passed.

Next on the agenda, Rita presented eight requests for increased Fund coverage. Motions were made, seconded, and passed on the following health care providers: Alva E. Bowyer, R.N.A., Geary Anesthesia Associates, P.A., Cecelia A. Griffith, R.P.T., Lawrence Clinical Laboratory, Chartered, Paul W. Murphy, M.D., Laurance W. Price, Jr., M.D., Michael G. Reynolds, M.D. and Michael R. Thomas, R.N.A.

Rita then requested the Board consider a request for exemption to 30-day requirement to purchase tail coverage made by Dr. Benn Haynes, M.D. Dr. Haynes correctly made a request for continuing tail coverage in a timely manner, but due to circumstances beyond his control receipt of the request was delayed. This was due to a mailing problem which was not his error. Motions were made, seconded and passed granting him exemption. The Board granted Dr. Haynes two weeks after receipt of the Health Care Stabilization Fund approval letter to submit payment.

The monthly report ending July 31, 1994, was received by the Board.

The Board recessed shortly.

**Kansas-Nebraska  
League of  
Savings  
Institutions**

Jeffrey D. Sonnich, Vice-President

Suite 512  
700 Kansas Avenue  
Topeka, Kansas 66603  
(913) 232-8215

January 18, 1995

TO: House Committee on Financial Institutions and Insurance  
FROM: Jeffrey Sonnich, Vice President KNOLSI  
RE: Bill introduction request; Mortgage Guaranty Insurance

The Kansas-Nebraska-Oklahoma League of Savings Institutions appreciates the opportunity to appear before the House Committee on Financial Institutions and Insurance to request introduction of a bill that would allow Kansas lending institutions delegated underwriting authority to place mortgage guaranty insurance.

Current law requires that before any policy of mortgage guaranty insurance is written the loan documentation must be sent to the guaranty insurance company for review. The attached bill would allow the lender, in accordance with the underwriting standards of the guaranty insurance company, to place the mortgage insurance. The lender would be subject to periodic audits by the guaranty insurance company to ensure compliance with underwriting standards.

The problem we see with the current system is that Kansas lenders are being put in a competitive disadvantage to out-of-state mortgage banking companies. These companies, by virtue of having their underwriting facilities located outside of Kansas, are able to directly underwrite guaranty insurance for their borrowers. The ability to underwrite the guaranty insurance results in reduced costs, and quicker loan approval....a decided advantage when lenders are competing in a slow housing market.

Kansas is the only state in the nation that does not allow lenders delegated underwriting authority. We foresee very few associated risks with the additional authority, since the lender will be following the same underwriting guidelines developed by the guaranty insurance company.

We respectfully request that this bill be introduced and referred back to the Committee for hearings and deliberations.

Jeffrey D. Sonnich  
Vice President

*Jeffrey D. Sonnich*

*Attachment 3*

*1-18-95*

\_\_\_\_\_ BILL NO. \_\_\_\_\_

AN ACT concerning mortgage guarantee insurance; discrimination in issuing or extending insurance prohibited; requirements on lender; examination of borrower and appraisal report prior to writing insurance; amending K.S.A. 40-3510 and repealing the existing section.

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

Section 1: K.S.A. 40-3510 is hereby amended to read as follows:

(a) No mortgage guaranty insurance company may discriminate in the issuance or extension of mortgage guaranty insurance on the basis of the applicant's sex, marital status, race, color, creed or national origin.

(b) Nothing in this act shall be construed as limiting the right of any mortgage guaranty insurance company to impose reasonable requirements upon the lender with regard to the terms of any note or bond or other evidence of indebtedness secured by a mortgage or deed of trust, such as requiring a stipulated down payment by the borrower.

(c) No policy of mortgage guaranty insurance excluding policies of reinsurance shall be written unless and until the insurer itself or the lender, in compliance with underwriting directives from the insurer and subject to periodic underwriting audits by the insurer shall have conducted a reasonable and thorough examination of (1) the evidence supporting credit worthiness of the borrower and (2) the appraisal report reflecting market evaluation of the property and shall have determined that prudent underwriting standards have been met.

Section 2: K.S.A. 40-3510 is hereby repealed.

Section 3: This Act shall take effect and be in force from and after its publication in the statute book.





Jeffrey D. Sonnich, Vice-President

Suite 512  
700 Kansas Avenue  
Topeka, Kansas 66603  
(913) 232-8215

January 18, 1995

TO: House Committee on Financial Institutions and Insurance  
FROM: Jeffrey Sonnich, Vice President  
RE: Bill Introduction; Mortgage Release

The Kansas-Nebraska-Oklahoma League of Savings Institutions appreciates the opportunity to appear before the House Committee on Financial Institutions and Insurance to request introduction of a bill that would allow Kansans and Kansas lending institutions the ability to effectuate the release of a mortgage when a mortgagee refuses or neglects to enter satisfaction.

This bill would amend K.S.A. 1994 Supp. 58-2309 (a) and K.S.A. 58-2306 to allow a mortgagor (borrower) or a lender who is "paying off" an existing loan to cause entry of satisfaction by providing the following:

1. Proof that the indebtedness has been paid in full.
2. A pay-off statement sent by the mortgagee dated within 45 days of the date the indebtedness had been paid.
3. A certificate or affidavit sent by certified or registered mail showing written demand for the mortgage release.

This is a new concept, but one that warrants debate because of the intolerable delays we are seeing in mortgage releases by some out-of-state mortgage servicers. In some cases obtaining a mortgage release can take up to a year and delays up to nine months are not uncommon. Current law will allow for damages of up to \$500 dollars together with reasonable attorney's fees for failure to release the mortgage, however the cost of obtaining out-of-state counsel and other costs associated with civil actions make this provision virtually useless.

From a lender standpoint, the problems associated with extended delays in obtaining releases are many. The lender seeking the release is prevented from obtaining a final title insurance policy on the property until the previous mortgage has been released. Salability of a loan without clear title also becomes questionable. Additionally, without a release, subsequent mortgages filed will be subordinate to those already recorded. This would prevent a lender from perfecting their lien. From a consumer standpoint, a borrower is effectively prevented from selling or refinancing their home until the release of the previous mortgage is obtained. Without clear title the loan underwriting process grinds to a halt.

It has become clear over the last several years that mortgage lenders in this state need an alternative system for obtaining mortgage releases when extended delays occur. The attached bill, we believe, will put that system in place. We respectfully request that the attached bill be introduced and referred back to the Committee for hearings and deliberations.

Jeffrey D. Sonnich  
Vice President

*Handwritten:* House FID  
Attachment 4

*Handwritten:* 1-18-95

BILL NO. \_\_\_\_\_

AN ACT relating to mortgages on real property; concerning entry of satisfaction of mortgage; duties and liability of mortgage or assignee of mortgage; satisfaction by mortgagor when negligence or assignee refuses or neglects to satisfy; amending K.S.A. 1994 Supp. 58-2309 (a) and K.S.A. 58-2306, and repealing the existing sections.

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

Section 1: K.S.A. 1994 Supp. 58-2309(a) is hereby amended to read as follows:

(a) When the indebtedness secured by a recorded mortgage is paid and there is no agreement for the making of future advances to be secured by the mortgage, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be entered of record forthwith, paying the required fee. In the event the mortgagee or the mortgagee's assignee fails to enter satisfaction or cause satisfaction of such mortgage to be entered within twenty (20) days after written demand by certified or registered mail, the mortgagor or the lender who has caused the indebtedness to be paid in full may cause satisfaction of the mortgage to be entered as set forth hereinafter. Satisfaction of the mortgage by the mortgagor or the lender who has caused the indebtedness to be paid in full shall require proof of payment in full of the remaining indebtedness due the mortgagee or assignee. The mortgagor or the lender who has caused the indebtedness to be paid in full shall attach to the mortgage release filed pursuant to K.S.A. 58-2306, as amended, a pay-off statement from the mortgagee or the mortgagee's assignee dated within 45 days of the date the indebtedness has been paid in full, a canceled check or proof of electronic funds transfer showing payment in full of the amount shown on the pay-off statement and a certificate or affidavit showing written demand directed to the mortgagee or the mortgagee's assignee by certified or registered mail showing the failure to release the mortgage. Upon recording of such satisfaction by the mortgagor or the lender who has caused the indebtedness to be paid in full and proof of payment, such mortgage shall be deemed fully released as if discharged by the mortgagee or mortgagee's assignee.

(b) When a mortgage is recorded covering real estate in which the mortgagor has no interest, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be

entered of record, paying the required fee without charge to the mortgagor or the mortgagor's assigns.

(c) A mortgagor, a mortgagor's heirs or assigns or anyone acting for such mortgagor, heirs or assigns, or the owner of real estate upon which a mortgage has been recorded by someone having no interest in the real estate may make demand upon a mortgagee or assignee of a mortgagee for the entering of satisfaction of the mortgage, as provided for in subsections (a) and (b).

(d) Any mortgagee or assignee of a mortgagee who refuses or neglects to enter satisfaction of such mortgage within 20 days after demand has been made as provided in subsection (c) shall be liable in damages to the person for whom the demand was made in the sum of \$500 together with a reasonable attorney's fee for preparing and prosecuting the action. The plaintiff in such action may recover any additional damages that the evidence in the case warrants. Civil actions may be brought under this act before any court of competent jurisdiction, and attachments may be had as in other cases.

(e) The mortgagee or assignee of a mortgagee entering satisfaction or causing to be entered satisfaction of a mortgage under the provision of subsection (a) shall furnish to the office of the register of deeds the full name and last known post office address of the mortgagor or the mortgagor's assignee. The register of deeds shall forward such information to the county clerk who shall make any necessary changes in address records for mailing tax statements.

Section 2: K.S.A. 58-2306 is hereby amended to read as follows:

(a) Except as other provided by this section, any mortgage of real property that has been or may hereafter be recorded shall be assigned or discharged by an instrument acknowledging the assignment or satisfaction of such mortgage, signed by the mortgagee or his or her duly authorized attorney-in-fact, assignee of record, or personal representative or by the mortgagor or the lender who has caused the indebtedness to be paid in full upon compliance with K.S.A. 58-2309(a), as amended, and duly acknowledged and certified as other instruments affecting real estate. Such instrument shall contain the name of the mortgagor the mortgagee, a legal description of the property and the volume and page in which the mortgage is recorded.

(b) Where the mortgagee or assignee of record is deceased, and where the estate of such deceased mortgagee

or assignee of record is in process of administration, in this or any other state, an assignment or a full release of such mortgage may be made by the executor or administrator without any showing as to the provisions of the will of the deceased, but there must accompany such assignment or release, as a part thereof, a certificate from a court of competent jurisdiction appointing such executor or administrator, under the hand of its proper officer, and attested by its seal, certifying as to such appointment, and that such executor or administrator is, at the date of such assignment or release, still so acting under the authority of such court. Such certificate shall not be required when the executor or administrator is acting under appointment of the district court of the county where the real estate mortgaged is located. Where the estate of such deceased has not been administered upon, or where the estate of such deceased has been administered and settled and the executor or administrator discharged, such assignment or release may be made by the heirs at law or legatee of such deceased mortgagee or assignee, and competent evidence must be furnished by them of the fact.

(c) Where the mortgagee or assignee of record is a firm or partnership, such mortgage shall be assigned or discharged by an instrument acknowledging the assignment or satisfaction of such mortgage as hereinbefore provided. Such instrument shall be signed either by each member of the firm or partnership, or by the firm or partnership, or by the firm or partnership by one of the members thereof.

(d) Any mortgage which, prior to July 1, 1977, has been released by a notation on the original mortgage instrument and signed by the mortgagee or the mortgagee's duly authorized attorney in fact, assignee of record or personal representative may be recorded in the office of the register of deeds of the county where the mortgaged property is located. When recorded, such release shall have the same force and effect as mortgages discharged in accordance with subsection (a).

**Section 3:** K.S.A. 1994 Supp. 58-2309(a) and K.S.A. 58-2306 are hereby repealed.

**Section 4:** This Act shall take effect and be in force from and after its publication in the statute book.



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 COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

JANUARY 18, 1995

Mr. Chairman and Members of the Committee:

On behalf of Commissioner Frank Dunnick and the Office of the State Bank Commissioner, I am here to testify in support of House Bill 2071 and House Bill 2074.

**House Bill 2071**, amends K.S.A. 9-508 that is a definition section of the laws regulating money transmitters in Kansas. This amendment requires that any "person" who is selling money orders in this state must be authorized, by the Secretary of State's office, to do business in this state. Our office licenses and regulates this business in Kansas but currently there is no express requirement for such "person" to be registered with the Secretary of State's office.

**House Bill 2074** amends K.S.A. 9-809 and K.S.A. 9-1724. These statutes pertain to state chartered banks converting to a national association and mergers of state chartered banks, respectively. The proposed language adds notification requirements, to this office, when a state chartered bank either converts to or is merged into a national bank. Since few conversions have occurred in recent years, the most current problems we experience are with merger situations. Currently, if a state chartered bank merges into a national bank, our office has no approval over the transaction and there are no notification requirements. The proposed language adds to both statutes a notice requirement prior to consummation of the merger or conversion, and the remittance of the bank's state charter along with certification to us that notification was given to the Secretary of State's office. In order to ensure that our records as well as those of the Secretary of State's office are maintained correctly, this proposed legislation is necessary. Additionally, if such notification does not occur, banks who no longer exist as state chartered institutions are being assessed by our office for an annual fee because we are unaware of their merger/conversion. Much controversy has arisen in this area and the notification requirement will help to alleviate improper assessments. We would ask this legislation become effective upon publication in the Kansas Register to eliminate confusion that may occur when we are establishing assessments, in June, for the coming year.

*Attachment 5  
1-18-95*