

Approved: January 24, 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 19, 1995 in Room 527-S of the Capitol.

All members were present except: Representative Sawyer, Excused
Representative Welshimer, Excused

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

Conferees appearing before the committee: Mr. Jay C. Hinkel, private citizen
Judy Stork, State Bank Commissioner's Office
Jim Kent, State Treasurer's Office

Others attending: See attached list

Mr. Jay C. Hinkel, attorney from Topeka, requested the introduction of legislation which would apply available computer technology to enforce the existing statues which require all drivers to maintain adequate financial responsibility, i.e. liability coverage (Attachment 1). There are an estimated five to eight percent of the vehicles using the public roadways which are not covered by liability insurance. This sampling has been determined by speeding tickets and general driver's license checks. This bill would require Kansas to upgrade their computerized programs to track such individuals or it could be privatized. Some states have such programs or are in the process of legislating such a process. The proposed plan would have liability insureds pay a fee for this technological service but it ideally would be recouped by eventual lower rates.

Representative Humerickhouse moved for the introduction of this legislation. Representative Dawson seconded the motion. Motion carried.

Hearing on HB 2069--Banks and trust companies, officers and directors

Judy Stork, Office of the State Bank Commissioner appeared as a proponent of the bill which would disallow a bank director or officer to remain in that position if that person becomes indebted to a bank on a charged off indebtedness or judgement even if the debt is forgiven (Attachment 2). The Bank Commissioner's position is that directors and officers should be held to a high standard when it relates to their financial dealings. The limit for officers/directors as well as any employee's indebtedness is 15% of capital stock.

The second portion of the bill is a cleanup which will make KSA 9-1117 correspond to KSA 9-1118 by including language which would allow directors to own their qualifying shares of stock in the bank, in the parent corporation or in a parent corporation that controls, directly or indirectly, such bank.

The third portion of the bill would add "or trust company" to the current prohibition against an individual who has been convicted of a felony or any crime involving dishonesty or a breach of trust from serving as an officer, employee, or director.

The final portion of the bill would require a bank or trust company to notify the banking board prior to the relocating of business as a matter of public interest. This notice would appear in the bank's local newspaper.

No opponents appeared before the Committee and the Hearing was declared closed.

Hearing on HB 2070--Allowing bank commissioner to provide unclaimed property, violation information to state treasurer

Judy Stork, State Bank Commissioner's Office, reviewed the current statute (KSA 9-1303) which allows the Commissioner to share with the State Treasurer apparent violations of the uniform unclaimed property act if

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 527S-S Statehouse, at 9:00 a.m. on January 19, 1995.

the bank does not comply after examiners have brought this to their attention. The unclaimed property act was totally revised during the 1994 legislative session. The State Treasurer was given the authority to examine the bank for compliance if a supervising agency notifies the Treasurer of noncompliance. Language of KSA 9-1303 does not specifically allow the Bank Commissioner's office to share information gathered during an examination. The Commissioner's Office is asking for the authority to share this information with the Treasurer as it specifically relates to violations of the unclaimed property act in state chartered banks and trust companies. It is hoped this would eliminate a routine audit by the the Treasurer's Office.

Jim Kent of the State Treasurer's staff stated they would audit only one account or item if the bank, credit union, or insurance company was found to not be in compliance with the unclaimed property act.

There were not opponents and the Hearing was declared closed.

Hearing on HB 2073--Banks and trust companies, financial reports

Judy Stork, State Bank Commissioner's Office, stated this legislation would make the currently mandatory and published call reports to the Commissioner be required only at the request of the Commissioner. This information is required by the FDIC and the data is available to the Bank Commissioner's Office through computerized data bases.

The second change in the bill would add a mandatory requirement for all trust companies and trust departments to file an annual report as determined by the Commissioner. This would ensure that the Bank Commissioner's office would have the reports available to base their assessment fees. Problem banks are required to file progress reports and would not be affected.

There were no opponents to the bill and the Hearing was declared closed.

Action on HB 2071--Transmission of money; definition

The Bank Commissioner now has the statutory requirement to license all those who sell money orders. This legislation would require such companies to register with the Secretary of State.

Representative Smith moved for the favorable passage of this bill. Motion was seconded by Representative Merritt. Motion carried.

Action on HB 2074--Conversion, merger or consolidation of banks, notice required

This bill would require a state bank being merged or consolidated into a national bank to notify the State Banking Commissioner of such merger for budgetary concerns.

Representative Cox moved for the favorable passage of this bill. The motion was seconded by Representative Smith. Motion carried.

The meeting adjourned at 4:20 p.m. The next meeting is scheduled for January 23, 1995.

HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE GUEST LIST

DATE: Jan 19, 1995

NAME	REPRESENTING
David Ross	Ks. Assn. Life Underwriters.
Danielle Noe	KCUA
Varon A. Norton	Kansas Credit Union Assn.
Kimberly Shelly	State Farm
Jay C. Hinkel	attorney - citizen
Tom Barrett	Private citizen
Chuck Stone	KBA
Roger Trauzle	FFC
<i>India Espinoza/Avila/Custom Sawyer</i>	
Lee Wright	Famous Ins Group
<i>George Barber</i>	<i>KAFS</i>
ALAN STEPPAT	PETE MCGILL & ASSOC.
Ben Coates	KPA
Shannon Peterson	KBA
LARRY MAGILL	KATA
William Grant	OSBC
Judi Stork	✓
Kevin Glendening	✓
Jim Keef	Office of the Treasurer

**PRESENTATION TO HOUSE COMMITTEE
ON
FINANCIAL INSTITUTIONS AND INSURANCE**

January 19, 1995

My name is Jay Hinkel. I am an attorney practicing in Topeka, who represents persons suffering personally ruinous financial losses caused from injury in motor vehicle accidents involving uninsured drivers.

Current state statutes require all drivers to maintain continuous liability coverage, but these laws are ignored or circumvented by many drivers in this state. Some of these drivers operating without the required financial responsibility are discovered in traffic stops by law enforcement officers on the street. However, many surface only during an accident investigation, when their choice to risk the lives and livelihoods of others in exchange for their personal savings of a relatively few premium dollars becomes irrevocable with catastrophic effects on their victims.

The legislation I seek the committee to consider as a committee bill is intended to apply available computer technology to enforce the existing statutes which require all drivers to maintain adequate financial responsibility. The suggested mechanism would allow the state to identify and suspend the licenses of violators before they cause irreparable harm.

House F.D.S.

Attachment 1

1-19-95

HOUSE BILL _____

AN ACT relating to insurance; automobile liability insurance required by K.S.A. 40-3118; uninsured motor vehicles; verification system; fees; report required.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

New Section 1. (a) No later than 30 days following the effective date of this act, the director of the division of vehicles shall, in addition to current procedures, establish a system of verifying continuous in compliance with K.S.A. 40-3118 by all persons to which such act applies which system, at a minimum, includes the following elements:

(1) Identification of a data processing vendor or vendors possessing:

(A) the capability to provide adequate equipment, software, programming and processing for operation of the system, and such other facilities and capabilities as the verification system may require; and

(B) a demonstrated ability to match and cross-match information hereinafter described that is acquired or possessed by the division of motor vehicles with information acquired or possessed by insurers as necessary to identify a specific motor

vehicle with its specific motor vehicle liability insurance policy and the issuing insurer;

(2) an initial application of the verification system to motor vehicles registered in Kansas, operating for a period of fifteen (15) months commencing October 1, 1995, and ending on December 31, 1996.

(b) The division of vehicles shall, not later than September 1, 1995 and not less frequently than monthly thereafter, provide the selected data processing vendor a report of all licensed operators and all motor vehicles registered in Kansas in machine readable form which includes the following information:

(1) The complete name, address, zip code, date of birth, sex and, if available, social security number of each licensed operator; and

(2) the name of the insurer providing motor vehicle liability insurance, the policy number, vehicle identification number and year, make, model, for each motor vehicle registered in Shawnee, Jefferson, Jackson, Leavenworth and Johnson counties.

(c) Any fees which would otherwise be chargeable to the selected data processing vendor for the information described in paragraphs (1) and (2) of subsection (b) shall be waived. The Secretary of Revenue shall have the option to use the notice,

suspension and imposition of reinstatement fees provisions pursuant to K.S.A. 40-3104. The information reported to the Secretary of Revenue by the selected data processing vendor shall be prima facia evidence of failure to provide proof of financial security and violation of K.S.A. 40-3104.

(d) (1) Insurers shall, not later than July 1, 1995 and not less frequently than monthly thereafter provide the designated data processing vendor a report in machine readable form of all motor vehicles for which liability insurance is currently provided and that are registered or indicate the named insured resides in Kansas. Each report shall include all of the information described in subsections (b)(1) and (2) of this act as is available, but which must include complete name, address, date of birth, sex, policy number coverage initiation date, and coverage cancellation date if applicable.

(2) The commissioner shall establish with each insurer its proportionate share of the vendor's certified estimate of its data processing fee on October 1, 1995, determined by applying to the total fee the same proportion as the total earned premiums it received in the State of Kansas for all motor vehicle liability insurance policies described in K.S.A. 40-3107 bears to the premiums received on such business by all insurers during the

most recent calendar year for which the information is available from the commissioner.

(3) The proportionate share of the vendor's certified estimate of its data processing fee attributable to any insurer no longer doing business in Kansas shall be apportioned to those insurers currently doing business in Kansas according to the proportion determined by the formula noted at (1)(d)(2) above, applied to the share otherwise allocable to the insurer or insurers no longer doing business in Kansas.

(4) This determination shall be paid to the Secretary of Revenue by each insurer in five equal quarterly payments commencing on or before November 1, 1995. The Secretary of Revenue shall disburse funds from the aggregate receipts to the vendor monthly, upon presentation of billing. At the conclusion of the project, the vendor and the Secretary of Revenue shall reconcile accounts, with the commissioner to assess any shortfall or rebate any overage according to the ratio determined at Sec. 1(d)(2) and 1(d)(3).

(5) Failure of any insurer to comply with the requirements of this act shall be enforceable by the commissioner pursuant to Chapter 40 of the Kansas Statutes Annotated.

(6) Any self-insurer in compliance with K.S.A. 40-3104(d) or K.S.A. 66-1128 is exempted from the provisions of this act.

Sec. 2. The provision of K.S.A. 1991 Supp. 45-221(a)(11) shall not apply to the release of any information acquired by the division of vehicles pursuant to K.S.A. 40-3318 to the selected vendor the selected vendor and its employees shall be responsible for maintaining the confidentiality of the information other than as is necessary to provide relevant information to the division of vehicles.

Sec. 3. The provisions of K.S.A. 75-3738 to 75-3744 inclusive shall not apply to selection of the initial vendor identified pursuant to Section 1, Sub-section (a) of this Act.

Sec. 4. On or before February 1, 1997, the director of the division of vehicles shall report to the governor and the legislature data obtained through the verification system established under the provisions of this act which is informative as to:

(a) The number of uninsured motor vehicles identified by the system during the application period up to December 31, 1996;

(b) the number of uninsured motor vehicles independently identified by the division of vehicles through accident reports, sample verifications and other techniques employed pursuant to K.S.A. 40-3118 prior to passage of this act;

(c) an analysis of the merits of the verification system established pursuant to this act; and

(d) a recommendation as to whether the system should be let out for bidding to extend the project terms and, if so, a description of any necessary or desirable changes in its statutory requirements.

Sec. 5. As used in this act the following words and phrases have the meanings respectfully ascribed to them herein:

a) "Insurer" means any insurance company, as authorized by K.S.A. 40-201, duly authorized to transact business in this state and which issues policies of motor vehicle liability insurance covering liability arising out of the ownership, operation, maintenance or use of a motor vehicle.

b) "Motor vehicle" means every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power, used exclusively upon stationary rails or tracks, and also excepting a motorized bicycle or a motorized wheelchair.

c) "Machine readable form" means information encoded in a fashion that a computer can interpret, understand and act upon it, with such information transmitted on magnetic or electronic media.

d) "Uninsured motor vehicle" means any motor vehicle which is not included under an approved self-insurance plan of a

self-insurer or for which there is not in effect a motor vehicle liability insurance policy meeting the requirements of the Kansas Automobile Injury Reparations Act at K.S.A 40-3101 et seq.

e) "Commissioner" means the Commissioner of Insurance for the State of Kansas or his designee.

Sec. 6. 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 19, 1995

Mr. Chairman and Members of the Committee:

I am here today on behalf of Commissioner Frank Dunnick and the Office of the State Bank Commissioner to testify in favor of House Bill 2069, House Bill 2070, and House Bill 2073.

House Bill 2069 amends five different statutes under the Banking Code. The first two statutes, K.S.A. 9-1114 and K.S.A. 1994 Supp. 9-1115, are being amended in an identical fashion. The first statute pertains to directors of a bank or trust company whereas the second statute relates to officers of these same institutions. Currently, the language states that if a director or officer becomes indebted to a bank on a charged off indebtedness or judgement, such person must forfeit their position as a director or officer. We have had several instances where a director and/or officer have had debt at a bank that is charged off, and the bank will inquire as to whether forgiveness of such debt will correct the violation and therefore the bank can keep that employee in their position as an officer and/or director.

Our response has always been the intent and purpose of the statute is to ensure that directors and officers are held to a high standard when it relates to their financial dealings. We do not envision that a mere forgiveness of such charged off obligation follows the original intent of the statute. This position has been a long standing interpretation of our office and we are asking for this amendment for clarification purposes.

K.S.A. 9-1118 requires that a director of each bank take an oath to diligently perform their duties, It also requires that each director swear they own \$500 par value of stock in that bank or in the parent corporation of the bank. K.S.A. 9-1117 establishes the requirement that directors must own \$500 par value of stock. During the last legislative session, K.S.A. 9-1117 was changed to allow directors to own their qualifying shares of stock in the bank, in the parent corporation, or in a parent corporation that controls, directly or indirectly, such bank. Since K.S.A. 9-1117 was amended in this fashion last session, a corresponding amendment to K.S.A. 9-1118 was overlooked and is now being introduced as a clean-up measure.

House F.D.S.
Attachment 2
1-19-95

K.S.A. 9-1717 is being amended to add trust companies to the current prohibition against an individual, who has been convicted of a felon or any crime involving dishonesty or a breach of trust, from serving as an officer, employee or director. When the separate trust company law under article 20 of Chapter 17 was repealed in 1989, all references to trust companies were added to the banking code in Chapter 9. Generally, if there was a reference to bank, the term "or trust company" was added to that section of Chapter 9 to make the provisions apply to both banks and trust companies. It is unknown why 9-1717 was not changed at that time.

K.S.A. 1994 Supp. 9-1804 requires a bank or trust company to submit an application, to the banking board, prior to the relocation of their place of business. Historically, the banking board has requested that such notice of the application be filed, by the applicant, in the bank's local newspaper, allowing the citizens of the area to comment. The amendment to 9-1804 simply adds this historical practice to the statute. The application for relocation is currently the only application with the board which does not have a statutory publication requirement.

House Bill 2070 amends K.S.A. 9-1303 which governs the sharing of examination information with other federal and state agencies. The amendment found on page two, beginning on line nine, allows the Commissioner to share with the State Treasurer apparent violations of the uniform unclaimed property act, K.S.A. 58-3934 through 58-3978. As part of our routine bank examinations, our examining staff reviews a bank's compliance with the unclaimed property act. If violations are noted, they are brought to the attention of the bank and correction is requested. If correction has not been made by the time the examiners leave the bank, correction is again requested when the finalized examination report is transmitted to the bank.

During the last legislative session when the unclaimed property act was totally revised, the State Treasurer requested the authority from the legislature to examine financial institutions for compliance with this act. The bankers argued they were already examined in this area by the Bank Commissioner's staff and did not think the duplication of record review was warranted. As a compromise in this area, the language found on the attachment under Section 30, subsection (b) was added. This states that the Treasurer will not examine the bank for compliance if the financial institution submits a letter from their CPA or resolution from their board certifying compliance with the act. However, it also adds the provision that if a supervising agency notifies the Treasurer of noncompliance, the Treasurer can then examine the bank. K.S.A. 9-1712 prohibits our office from disclosing information gathered during an examination, unless it is authorized under K.S.A. 9-1303. As the language of K.S.A. 9-1303 does not specifically authorize our agency to share information with the Treasurer, notification would never occur, thereby rendering the intent of the last portion of Section 30, subsection (b) of the unclaimed property act worthless. We are asking for the authority to share information with the Treasurer as it specifically relates to apparent violations of the unclaimed property act found in state chartered banks and trust companies.

House Bill 2073 adds new language to the banking code under K.S.A. 9-1704. This statute governs the making of reports to the Commissioner by banks and trust companies. The new language makes two substantive changes. First, the requirement for banks and trust companies to file quarterly call reports, and to publish those call reports, is changed from a mandatory provision to that of reports being required only upon the request of the Commissioner. Currently, reports from banks and trust companies are required and received by our office three times per year. This information is filed in our office and is rarely used after receipt. The reason for this is the same reports are also filed with the Federal Deposit Insurance Corporation (FDIC) who then in turn input such reports on to their data base. The FDIC call report data base is available to our office and because of the enhanced accessibility offered by use of a computer, our office staff almost exclusively utilizes the FDIC data base for obtaining information they would otherwise retrieve from the paper copies in our office. The use of the paper copies is an antiquated method and the need for a bank to file such report on a regular basis no longer exists. However, we do not want to entirely remove the authority contained in this section as there may be a particular instance or reason where the Commissioner wishes for a bank or banks to file information on the condition of their bank(s).

The second substantive change occurs on page two, subsection (b) of the bill. This adds a mandatory requirement for all trust companies and trust departments to file an annual report, the form of which is determined by the Commissioner. Under K.S.A. 9-1703, the Commissioner assesses banks and their trust departments as well as trust companies an annual fee. The calculation for the trust departments and trust companies is based on their fiduciary assets as contained in an annual report that is filed with the Commissioner. We are asking for this annual report to be a mandatory filing to ensure we have reports available on which to base our assessment fee.

not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this act.

(b) No action or proceeding may be commenced by the administrator against a holder concerning any provision of this act more than 10 years after the holder either specifically reported the property, or gave notice of a dispute regarding the property, to the administrator.

Sec. 30. (a) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this act.

→ (b) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this act. The provisions of this section shall not apply to any supervised commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company which provides a letter from an independent certified public accountant or a resolution of its board of directors certifying compliance with this act, unless there is notification of noncompliance by a supervising agency of such commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company.

(c) If a person is treated under section 12 and amendments thereto as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (b), may examine the records of the person if the administrator has given the notice required by subsection (b) to both the person and the business association at least 90 days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder based upon the actual hourly salary rate for each examiner involved in the examination inclusive of travel to and from the place of the examination along with necessary and actual expenses for travel and subsistence as allowed under K.S.A. 75-3201 *et seq.* and amendments thereto, along with any consulting, data processing or other related expenses necessary to perform the examination. In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

(e) If a holder fails after the effective date of this act to maintain the records required by section 31 and amendments thereto and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

Sec. 31. (a) Every holder required to file a report under section 17 and amendments thereto, as to any property for which the holder has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for 10 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) or by rules and regulations of the administrator.

(b) Any business association that sells in this state travelers checks or money orders, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

Sec. 32. (a) The administrator, for and on behalf of this state, may commence an action in a district court of Kansas:

(1) For an adjudication that certain property is unclaimed and payable or distributable to the administrator;

(2) to compel presentation of a report or payment or distribution of property to the administrator;

(3) to enforce the duty of a person to permit the examination or audit of the records of that person;

(4) to enjoin any act that violates the public policy or provisions of this act; or

(5) to enforce any aspect of this act in any manner.

(b) The administrator may commence such an action in the following situations:

(1) The holder is a person domiciled in this state or is a governmental entity of this state;

(2) the holder is a person engaged in or transacting any business in this state, although not domiciled in this state; or

(3) the subject matter is tangible personal property held in this state.

(c) In a situation where no district court in this state can obtain jurisdiction over the person involved, the administrator may commence such an action in a federal court or state court of another state having jurisdiction over that person.

(d) The administrator shall be deemed an indispensable party any judicial or administrative proceedings concerning the disposition.