

Approved: February 15, 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 February 7, 1995 in Room 527S of the Capitol.

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

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

Conferees appearing before the committee: Representative Susan Wagle
Chuck Stones, Kansas Bankers Association
Judy Stork, Office of Bank Commissioner

Others attending: See attached list

Representative Susan Wagle appeared before the Committee with a request for introduction of reverse mortgage legislation (Attachment 1).

Representative Dawson moved for the introduction of the legislation as a Committee bill. The motion was seconded by Representative Crabb. Motion carried.

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

The bill was passed from Committee and rereferred for further review and action. Call report publication in the local newspapers appeared to be the problem. The call report publication law was repealed by all three federal regulatory bodies in 1994 (Attachment 2). It is now at the option of the local banks if they wish to publish a condensed version of the call report. The State Bank Commissioner has access to call reports. Such reports in more detail are available at all banks upon request. Publication costs for such reports can run as high as \$6,000 a year in the Wichita area with the costs being passed right back to all customers.

Representative Wilson moved to pass the bill out favorably. It was seconded by Representative Merritt. Motion carried.

Action on HB 2089--Confidentiality of compliance review documents for financial institutions

Bill Wolff reviewed the bill and explained that this type of confidentiality and in-house review is common in the health field.

Representative Merritt moved to pass the bill out favorably. It was seconded by Representative Samuelson. Motion carried. Representative Smith asked to be recorded as a "no" vote.

Action on HB 2125- Mortgage guaranty insurance companies, requiring certain examinations

This bill will bring Kansas into the arena of the other states by allowing lending institutions the right to review, underwrite, and enroll applicants for mortgage guaranty insurance onto the mortgage guaranty insurance policy issued to the lending institution.

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

The meeting adjourned at 4:00 p.m. The next meeting is scheduled for February 8.

2-7-95

HOUSE BILL NO. _____

By

AN ACT concerning mortgages; relating to reverse mortgages;
amending K.S.A. 16-207 and repealing the existing section.

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

Section 1. K.S.A. 16-207 is hereby amended to read as follows: 16-207. (a) Subject to the following provision, the parties to any bond, bill, promissory note or other instrument of writing for the payment or forbearance of money may stipulate therein for interest receivable upon the amount of such bond, bill, note or other instrument of writing, at a rate not to exceed 15% per annum unless otherwise specifically authorized by law.

(b) The maximum rate of interest per annum for notes secured by all real estate mortgages and contracts for deed to real estate executed on or after the effective date of this act shall be at an amount equal to 1 1/2 percentage points above the yield of thirty-year fixed rate conventional home mortgages committed for delivery within 61 to 90 days accepted under the federal home loan mortgage corporation's daily offerings for sale on the last day on which commitments for such mortgages were received in the preceding month unless otherwise specifically authorized by law. Such interest rate shall be computed for each calendar month and be effective on the first day thereof. The secretary of state shall publish notice of such maximum interest rate not later than the second issue of the Kansas register published each month. The initial rate of interest upon any conventional loan evidenced by a note secured by a real estate mortgage shall not exceed the rate quoted in the application executed by the borrower on the day on which application for such conventional loan is made.

(c) No penalty shall be assessed against any party for prepayment of any home loan evidenced by a note secured by a real

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Attachment 1

estate mortgage where such prepayment is made more than six months after execution of such note.

(d) The lender may collect from the borrower: (1) The actual fees paid a public official or agency of the state, or federal government, for filing, recording or releasing any instrument relating to a loan subject to the provisions of this section; and (2) reasonable expenses incurred by the lender in connection with the making, closing, disbursing, extending, readjusting or renewing of loans subject to the provisions of this section.

(e) Any person so contracting for a greater rate of interest than that authorized by this section shall forfeit all interest so contracted for in excess of the amount authorized under this section; and in addition thereto shall forfeit a sum of money, to be deducted from the amount due for principal and lawful interest, equal to the amount of interest contracted for in excess of the amount authorized by this section and such amounts may be set up as a defense or counterclaim in any action to enforce the collection of such obligation and the borrower shall also recover a reasonable attorney fee.

(f) The interest rates prescribed in subsections (a) and (b) ~~of--this--section~~ shall not apply to a business or agricultural loan. For the purpose of this section unless a loan is made primarily for personal, family or household purposes, the loan shall be considered a business or agricultural loan. For the purpose of this subsection, a business or agricultural loan shall include credit sales and notes secured by contracts for deed to real estate.

(g) Loans made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant, are not subject to the interest rates prescribed in subsections (a) and (b) ~~of--this--section~~.

(h) The interest rates prescribed in subsections (a) and (b) ~~of--this--section~~ shall not apply to a note secured by a real estate mortgage or a contract for deed to real estate where the

note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule.

(i) The interest rates prescribed in subsections (a) and (b) shall not apply to a loan secured by a reverse mortgage. For the purpose of this subsection, "reverse mortgage" means a loan made by a lender authorized to engage in business as a bank, savings and loan association, savings bank or credit union under the laws of the United States or this state or by a lender authorized to make supervised loans in this state which: (1) Is secured by residential real property; (2) provides cash advances to the borrower based upon the equity in the borrower's owner-occupied principal residence; (3) requires no payment of principal or interest until the entire loan becomes due and payable; and (4) otherwise complies with the terms of this section.

Sec. 2. K.S.A. 16-207 is hereby repealed.

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

no. H.B. 2073

From State Banking Dept.

HB 2073

House of Representatives regarding the progress of the agencies in implementing the system and indicating areas in which enhancements to the system, including legislature improvements, would be appropriate."

(b) STATE ACCESS TO FEDERAL AGENCY REPORTS.—The first sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "and, with respect to any State depository institution, any appropriate State bank supervisor for such institution," after "The Corporation".

SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

(a) IN GENERAL.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "\$100,000,000" and inserting "\$250,000,000";

(2) in subparagraph (C), by striking "and its composite condition was found to be outstanding; and" and inserting "and its composite condition—

"(i) was found to be outstanding; or

"(ii) was found to be outstanding or good, in the case of an insured depository institution that has total assets of not more than \$100,000,000;";

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

(b) AGENCY DISCRETION TO RAISE ASSET LIMIT.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(8) AGENCIES AUTHORIZED TO INCREASE MAXIMUM ASSET AMOUNT OF INSTITUTIONS FOR CERTAIN PURPOSES.—At any time after the end of the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the appropriate Federal banking agency, in the agency's discretion, may increase the maximum amount limitation contained in paragraph (4)(C)(ii), by regulation, from \$100,000,000 to an amount not to exceed \$175,000,000 for purposes of such paragraph, if the agency determines that the greater amount would be consistent with the principles of safety and soundness for insured depository institutions."

SEC. 307. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements relating to bank reports of condition, savings association financial statements, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates

12 USC 4805.

12 USC 4806.

Call report
Publication
was
repealed by
all three
federal regulatory
bodies.

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(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.

(a) REVISED STATUTES.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) in the 5th sentence of subsection (a), by striking "and the statement of resources" and all that follows through "as may be required by the Comptroller"; and

(2) in subsection (c), by striking the 4th sentence.

(b) FDIA.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the 4th sentence.

(c) FEDERAL RESERVE ACT.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended in the last sentence of the 6th undesignated paragraph, by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

SEC. 309. REGULATORY APPEALS PROCESS, OMBUDSMAN, AND ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure that—

(1) any appeal of a material supervisory determination by an insured depository institution or insured credit union is heard and decided expeditiously; and

(2) appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency

Public notice.



Re. H.B. 2073

OCC 94-57.

OCC BULLETIN

Comptroller of the Currency
Administrator of National Banks

Subject: Call Reports

Description: Repeal of Publication
Requirements

TO: The Chief Executive Officers of all National Banks, Department and Division Heads,
and all Examining Personnel

PURPOSE

This bulletin announces the repeal of the call report publication requirements for national banks contained in 12 U.S.C. 161. This repeal is effective as of September 23, 1994, and is part of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law No. 103-325.

BACKGROUND

On September 23, 1994, the President signed into the law the Riegle Community Development and Regulatory Improvement Act of 1994. Section 308 of the act repeals the requirement that every national bank publish its statement of resources and liabilities contained in the call report in a local newspaper. This repeal does not affect any of the other requirements that national banks face regarding making call reports publicly available. Section 308 repeals similar requirements for state member banks under the Federal Reserve Act (12 U.S.C. 324), and for insured state non-member banks under the Federal Deposit Insurance Act (12 U.S.C. 1817).

RESPONSIBLE OFFICE: Questions concerning this bulletin should be directed to the Office of the Chief National Bank Examiner, (202) 874-5190.

Jimmy F. Barton
Chief National Bank Examiner