

Approved: 1/18/96
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:08 a.m. on January 17, 1996 in Room 529-S of the Capitol.

All members were present.

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: Judi Stork, Deputy Kansas Bank Commissioner
Kathy Taylor, Kansas Bankers Association
George Barbee, Barbee and Associates
Matthew Goddard, Heartland Community Bankers Association

Others attending: See attached list

Senator Steffes made a motion to approve the minutes of the meeting of January 16 as submitted. Senator Emert seconded the motion. The motion carried.

The hearing was opened on **SB 418**, which adds a requirement that banks cannot transfer bank stock if the owner of the stock is indebted to the bank on an obligation which has been charged off the bank's books or if the bank has forgiven the debt. Judi Stork, Deputy Bank Commissioner, appeared as a proponent of this bill and explained the need for this legislation. (Attachment 1-1) There was no opposition from members of the banking community present. Senator Steffes moved to pass the bill favorably; Senator Lee seconded the motion. The motion carried. Senator Bond will carry this bill.

The chairman opened the hearing on **SB 435**. Ms. Stork also appeared as a proponent of this legislation, explaining that it would require a bank to retain the original fidelity bond and furnish the Bank Commissioner's office with a copy. Also, subsection (c) requires an officer of a bank or trust company to forfeit their position if the officer has had a debt or debts forgiven by the bank. (Attachment 1-1,2) Senators Bond and Steffes requested clarification of different scenarios and Senator Emert asked for a definition of "officer." There were no further questions and no other conferees; the hearing was closed. Senator Emert moved to pass the bill favorably. Senator Praeger Seconded the motion. The motion carried. Senator Bond will carry the bill.

The hearing was opened on **SB 436**, which sets requirements for banks to follow to change permanent banking hours. Judi Stork also appeared to request favorable consideration of this legislation. (Attachment 1-2) There being no other conferees, the hearing was closed. Senator Emert moved to pass **SB 436** favorably and to place it on the Consent Calendar. The motion carried.

The hearing was opened on **SB 417**. Kathy Taylor, Kansas Bankers Association, appeared as a proponent of this legislation, stating that it would allow financial institutions to recoup some of the costs associated with offering open-end consumer credit. (Attachment #2) At the committee's request, Ms. Taylor described how the law would affect consumers and lenders.

George Barbee, Barbee and Associates, also appeared in support of this bill and explained that it would enable the financial industry to compete with credit card companies by allowing Kansas lenders to set fees for the use of open-end credit, as credit card companies currently do. (Attachment #3)

Matthew Goddard, Heartland Community Bankers, also requested passage of **SB 417**, stating that more financial institutions would consider making open-end credit available if they were allowed to assess fees in order to offset the expense of maintaining these accounts. (Attachment #4) There being no other conferees, the hearing was closed.

The committee then considered an amendment recommended by the Consumer Credit Commissioner to limit the fees to being charged for open-end credit accounts only. (Attachment #5) All of the conferees on **SB 417** voiced their support for this amendment.

Senator Steffes made a motion to amend **SB 417** as requested. Senator Emert seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 17, 1995.

Senator Hensley explained that then Governor Finney vetoed similar legislation in 1992 because of her concern that it gave financial institutions the ability to charge twice for a service. Ms. Taylor explained that the fee would only be incurred when the consumer accessed open-end credit or utilized overdraft protection.

Senator Steffes moved to pass the bill favorably as amended. Senator Clark seconded the motion. The motion carried. Senator Steffes will carry this bill on the Senate floor.

The next meeting is scheduled for January 18, 1995.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 1/17/96

NAME	REPRESENTING
JEFF SONNICKI	HEARTLAND COMM. BANKERS
Matthew Goddard	Heartland Community Bankers
Alan Steppat	PETE McGUIRE & ASSOC.
Roger Fraudie	KGC
Pat Morris	KAIA
Jim Mazy	KBA
Kathy Duffin	KBA
Melissa Wangemann	Hein, Ebert & Weir
DEBRA JORSCH	Lt. GOVERNOR
Karen Jameson	Crossroads INCy
Chuck Stones	KBA
Tina Barker	Central National Bank - JC
George Barbee	KS ASSN FIN SERVS.
Chris Wakim	Household Financial Grp, LTD.
RONALD K. CLARKE	" " " "
Donald D Ehlebracht	Cross Roads of Leadership
Jim Jensen	" "
Wayne E Fuesen	" "
Jayme Elliott	" "

Amielle Poe

KCUA

STATE OF KANSAS
BILL GRAVES
GOVERNOR



W. Newton Male
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

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

JANUARY 17, 1996

Mr. Chairman and Members of the Committee:

I am Judi Stork, Deputy Commissioner, and I am here today on behalf of Commissioner Newton Male and the Office of the State Bank Commissioner to testify for three Senate Bills. Commissioner Male requested I share his regrets for not being able to attend today's hearing. He is meeting with our field staff in the Hays and Salina locations today.

The first, **Senate Bill 418**, amends K.S.A. 9-903, a statute that governs the transfer of bank stock. Currently, the statute restricts the bank from transferring stock if the owner of stock is indebted to the bank on a matured obligation. Our amendment **adds** the requirement that the bank cannot transfer the stock if the owner is indebted to the bank on an obligation which has been charged off the bank's books or if the bank has forgiven the stockholder's debt.

This amendment was brought about as the result of one particular bank which renegotiated debt with a delinquent borrower resulting in a loan of a reduced amount, with the balance charged off the bank's books. The borrower who owned bank stock then sold their stock, after the renegotiation of debt. Since the borrower's debt with the bank was no longer a matured obligation, the bank did not collect any money (thereby recouping a portion of their loss) from this sale of stock. Further, the bank could not legally take the bank stock as collateral, pursuant to K.S.A. 9-1112. This amendment is needed to provide protection to the bank against losses which it should not have to incur.

Senate Bill 435 amends K.S.A. 9-1115. We are asking for amendments in two parts of this statute. First, under subsection (b), we are asking that banks retain the ORIGINAL copy of their fidelity bond coverage and provide the banking department with a photocopy of the pertinent parts of the document. This has been the actual practice for several years as it would be cumbersome to maintain the original documents for 318 banks and trust companies. The law currently states the original shall be held by the commissioner.

Secondly, under subsection (c), the current law requires an officer of a bank or trust company to forfeit their position as an officer if they become indebted to the bank on a charged off obligation. We would like to add the provision that they must also forfeit their position if their debt with the bank is forgiven by the bank. We have had several instances where an officer has had debt at a bank that is charged off, and the bank has inquired as to whether forgiveness of such debt will correct the violation and therefore the bank could keep that employee in their position as an officer. Our response has always been the intent and purpose of the statute is to ensure that officers are held to a high standard with regard 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.

Senate 418
1/17/96
Attachment #1

It should be noted that this statute, specifically the amended language found in subsection (c), is found in HB 2069 which remains in conference committee from last year.

Senate Bill 436 amends K.S.A. 9-1122, the law which governs when banks are open for business. Our office receives numerous phone calls throughout the course of the year, from bankers, questioning the procedures they must follow to change their banking hours. We are adding language to this statute which sets requirements for them to follow. The procedure requires the adoption of a resolution by the bank's board of directors and the posting of such resolution for 15 days.

We ask for your favorable consideration of these bills.

7141 1/17/96
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The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 10, 1996

TO: Senate Committee on Financial Institutions and Insurance

RE: **SB 417**

The Kansas Bankers Association appreciates the opportunity to appear in support of **SB 417**. This legislative proposal will allow financial institutions to recoup some of the costs associated with offering consumer credit.

The KBA proposed a similar bill in 1992 (HB 2746). This bill passed both the Senate and the House of Representatives, but was vetoed by the Governor.

As you know, consumer credit transactions are covered by the Uniform Consumer Credit Code (UCCC). Under the consumer protection provisions of the UCCC, a financial institution is allowed to collect interest from its customer in exchange for the use of the loaned money. The UCCC also provides that certain other additional charges may be collected by the financial institution in connection with a consumer credit transaction.

These additional charges are found in KSA 16a-2-501. **SB 417** would amend subsection (1)(c). This subsection has long been the center of some controversy among bank counsel. Some bank attorneys have interpreted that section to mean that only in the case of credit cards, could additional charges be collected for cash advances, going over the credit limit and an annual or monthly fee. It hardly seems reasonable that the drafters of this legislation intended for financial institutions to be able to recoup such costs of lending only for credit card operations.

On the other hand, there are many attorneys who represent banks across the state, who believe that the existing language in the UCCC is broad enough to allow a financial institution to charge such a fee on other types of consumer credit transactions. We believe this legislation is needed to clarify the matter.

The 1992 version of this proposal was very specific. At that time, many financial institutions had begun offering a fairly new type of open-end credit referred to as "overdraft protection open-end credit lines". Essentially, the institution and the customer enter into an agreement that when the customer overdraws his or her checking account, the financial institution will automatically deposit enough funds to cover the check. This agreement is voluntary and is a choice made by the customer in lieu of having checks returned for insufficient funds and being charged overdraft fees. Those customers not wishing to participate simply do not.

*Senate 7141 1/17/96
Attachment # 2*

*J.P./fll
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With the current language of the UCCC, there is no clear provision to allow a financial institution to recoup the costs associated with overdraft protection open-end credit lines. For example, there are costs involved in setting up such an account, plus the costs involved each time the customer accesses the funds. When the check is written that overdraws the account, the funds must then be transferred, documentation evidencing the transfer must be made and the customer must be then notified.

The same is true of other types of open-end credit in that every time the credit card or open account is accessed, costs are involved.

SB 417 eliminates the language in KSA 16a-2-501(1)(c) which has caused the conflicting interpretations. By doing so however, the fees mentioned in that subsection would be available to all types of consumer credit. Bill Caton, the Consumer Credit Commissioner has drafted an amendment that would limit these additional charges to just open-end credit.

The KBA does not object to the amendment. It does present a policy decision for this committee to make. That is, how broad should the fee structure of the UCCC be? Should it be limited to only credit card operations, should it apply to only open-end consumer credit, or should it include all consumer credit transactions.

In conclusion, we urge you to vote favorably on the passage of **SB 417**. Please keep in mind that this bill does **not** represent a mandatory fee of increase in fees for all bank customers. It would simply allow a financial institution to recover the costs associated with offering consumer credit to its customers who **choose** to have it.

Kathleen A. Taylor
Associate General Counsel

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1/17/96
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The Kansas Association of Financial Services

George Barbee, Executive Director
Jayhawk Tower, 700 SW Jackson, Suite 702
Topeka, KS 66603-3758

913/233-0555

Fax: 913/357-6629

Statement to
Senate Committee on Financial Institutions and Insurance
on Senate Bill-417
Wednesday, January 17, 1996

Mr. Chairman and members of the committee, my name is George Barbee and I am representing the Kansas Association of Financial Services. The members of KAFS are familiar names, such as Beneficial, Associates, Norwest, American General, Household, and more.

I appreciate the opportunity today to appear in support of Senate Bill-417 which has been suggested by the Kansas Bankers Association.

Equity loans secured by land are very popular in the lending industry. Consumer finance companies frequently make these loans on an open ended basis. The borrower is allowed a credit line, based on the equity in their real estate. The lender issues checks to the borrower who can draw amounts at their discretion and make payments on the balance, much the same as a credit card. Rates on these loans can be fixed or a varying adjusted fee.

This is the consumer finance industry's method of competing with credit card companies. However, credit card companies are allowed to charge an annual fee for the use of their credit cards.

These open end lines of credit require a great deal of annual maintenance, such as possible annual adjusting of rates and sending monthly billings as loan balances vary. Prudent lenders are making annual credit checks on the borrower as the loan balances increase. This bill would simply allow Kansas lenders to have the same fee privilege as do credit card companies.

We believe that competition will set the amount of fees, if any, the same as it is with credit card fees. As you know, some credit cards charge no fees while others, such as platinum cards, charge hundreds of dollars annually.

Mr. Chairman we appreciate the opportunity to voice our support for this measure and urge you to report Senate Bill-417 favorably.

Senate 7141
1/17/96
Attachment #3



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
(913) 232-8215

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: January 17, 1996

Re: Senate Bill No. 417

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Committee on Financial Institutions and Insurance in support of SB 417.

This bill would allow financial institutions to charge certain fees in connection with open-lines of credit. As it is now written, K.S.A. 16a-2-501 allows these certain fees only when a lender credit card is involved.

Few, if any, Kansas savings institutions currently offer open-end lines of credit. This legislation would allow Kansas savings institutions who offer the service to charge a nominal monthly or annual fee. More institutions would consider and possibly make them available as a customer service if they were allowed to assess fees in order to offset the expense of maintaining these accounts. While the incurred costs vary from institution to institution, they generally include mailing and handling costs, monthly line-usage statements and annual interest statements.

We respectfully request that the Senate Committee on Financial Institutions and Insurance recommend SB 417 for passage.

Thank you.

*Senate 7/21
1/17/96
Attachment # 4*



KANSAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

Bill Graves
Governor

Wm. F. Caton
Commissioner

MEMORANDUM

TO: Senator Dick Bond, Chairman
Senate Financial and Insurance Committee

FROM: Wm. F. Caton, Commissioner *Bill Caton*

DATE: January 16, 1996

RE: Senate Bill 417

I wish to offer an amendment to Senate Bill 417 presented to your committee which amends the Kansas Uniform Consumer Credit Code. This amendment was requested by the Kansas Bankers Association and was intended to allow fees and charges allowed in K.S.A. 16a-2-501(1) (c) to open end lines of credit and overdraft protection plans. The proposed amendment strikes language from subsection (c) that limits these fees only to lender credit cards. However, this amendment would allow these fees on all consumer credit transactions including closed end accounts.

I do not believe it was the intent of the Kansas Bankers Association to allow these charges on closed end credit and I am adverse to allowing these charges on closed end credit transactions.

My amendment would allow these charges on any open end credit account which I believe is a reasonable request from the industry. Open end credit has evolved significantly in the past several years and I do not believe a lender credit card should be the only type of open end credit account which is afforded these charges.

I will be unable to attend the hearing set for Senate Bill 417 on January 17 as I have been requested to testify before the Senate Agricultural Committee. I will be happy to discuss this with you and the committee or its staff at your convenience.

WFC:dr

*Senate 7141
1/17/96
Attachment # 5*

SENATE BILL No. 417

By Committee on Financial Institutions and Insurance

1-9

9 AN ACT concerning certain charges on consumer credit sales; amending
10 K.S.A. 16a-2-501 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 16a-2-501 is hereby amended to read as follows:
14 16a-2-501. (1) In addition to the finance charge permitted by the parts
15 of this article on maximum finance charges for consumer credit sales and
16 consumer loans (parts 2 and 4), a creditor may contract for and receive
17 the following additional charges in connection with a consumer credit
18 transaction:

19 (a) Official fees and taxes;

20 (b) charges for insurance as described in subsection (2);

21 (c) annual fees payable in advance or monthly fees, delinquency
22 charges, insufficient check charges as provided in paragraph (e) of this
23 subsection, over-limit fees and cash advance fees; ~~for the privilege of using~~
24 ~~a lender credit card which entitles the user to purchase goods or services~~
25 ~~from at least 100 persons not related to the issuer of the lender credit~~
26 ~~card, under an arrangement pursuant to which the debts resulting from~~
27 ~~the purchases are payable to the issuer;~~

28 (d) charges for other benefits, including insurance, conferred on the
29 consumer, if the benefits are of value to the consumer and if the charges
30 are reasonable in relation to the benefits, are of a type which is not for
31 credit, and are excluded as permissible additional charges from the fi-
32 nance charge by rules and regulations adopted by the administrator;

33 (e) a service charge for an insufficient check as defined and author-
34 ized by this subsection:

35 (i) For the purposes of this subsection, "insufficient check" means
36 any check, order or draft drawn on any bank, credit union, savings and
37 loan association, or other financial institution for the payment of money
38 and delivered in payment, in whole or in part, of preexisting indebtedness
39 of the drawer or maker, which is refused payment by the drawee because
40 the drawer or maker does not have sufficient funds in or credits with the
41 drawee to pay the amount of the check, order or draft upon presentation,
42 provided that any check, order or draft which is postdated or delivered
43 to a payee who has knowledge at the time of delivery that the drawer or

for the privilege of using an
open end credit account;

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