

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 22, 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: William Caton, Consumer Credit Commissioner  
Danielle Noe, Kansas Credit Union Association  
Matthew Goddard, Heartland Community Bankers  
George Barbee, Kansas Association of Financial Services

Others attending: See attached list

Senator Steffes made a motion, seconded by Senator Praeger, to approve the minutes of the meeting of January 18 as submitted. The motion carried.

The hearing was opened on **SB 411**, concerning UCCC closing costs and application of payments. William Caton, Consumer Credit Commissioner, appeared before the committee as a proponent of this bill. Mr. Caton explained the intent of this legislation, which amends the Kansas Uniform Consumer Credit Code in several areas. (Attachment #1) Mr. Caton also proposed an amendment to the bill to allow "in-house" charges for appraisal fees.

Danielle Noe, Kansas Credit Union Association, also appeared as a proponent, stating that the bill is consumer friendly but will also benefit credit companies. (Attachment #2)

Matthew Goddard, Heartland Community Bankers, appeared as a proponent of **SB 411**, stating that the bill will safeguard borrowers by requiring that delinquent payments made prior to the due date of the next installment be applied to the previous, delinquent payment. (Attachment #3)

George Barbee, Kansas Association of Financial Services, also testified in favor of this legislation. (Attachment #4)

The chair called for a motion regarding the amendment proposed by Mr. Caton. No motion was forthcoming. Senator Steffes moved to pass the bill favorably without the amendment. Senator Corbin seconded the motion. The motion carried. Senator Bond will carry this bill.

The hearing was opened on **SB 434**, allowing credit union investments in credit union service organizations. John Smith, Administrator, Kansas Credit Union Department, appeared before the committee as a proponent of this bill, stating that it will affect six changes to update Kansas law. (Attachment #5) In response to Senator Bond's request, Mr. Smith defined a credit union service organization. Mr. Smith also pointed out that the bill required amending to correct some of the language. There being no further questions and no other conferees, the hearing was closed. Senator Emert made a motion to amend the language as suggested and to pass the **SB 434** favorably. Senator Lee seconded the motion. The motion carried.

The chairman opened the hearing on **SB 437**, concerning maximum finance charges for consumer loans. George Barbee, KAFS, explained the bill to the committee and requested favorable consideration of this legislation. (Attachment #6) Due to time constraints, the hearing on **SB 437** will be continued in a future meeting.

Senator Hensley made a motion, seconded by Senator Emert, to recommend confirmation of the reappointment of Ray Shepherd to the State Banking Board. The motion carried. (Attachment #7) A confirmation hearing for Mr. Shepherd was held before this committee at his initial appointment in 1994 and since this is a reappointment, the committee elected to recommend confirmation of Mr. Shepherd without his being required to appear before the committee a second time.

The committee adjourned at 10:02 a.m. The next meeting will be Tuesday, January 23.

# SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 1/22/96

NAME	REPRESENTING
Chris Wakim	Household Financial Co, LTD
Roger Traut	FFC
Mark Heath	State Credit Union
J. E. Derby	Norfolk Bell CU
John P. Smith	Dept. of credit unions
Duane Nighthelm	Kan Bell CU
Matthew Goddard	Hearland Community Bankers
Georg Ross, Jr.	Treasurer's Office
Kelly Kuitala	KTLA
Quen Rorsch	Lt. Governor
George Barber	K A F S
Chuck Stokes	KBA
Walter Taylor	KBA
Bill Caton	Consumer Credit
Whitney Danner	Kansas Bar Association
Bill Sneed	Am Veterans
Danielle Klee	KCUA
Calie Denton	KID

**TESTIMONY**  
**BILL CATON, CONSUMER CREDIT COMMISSIONER**  
**SENATE BILL No. 411**  
**JANUARY 22, 1996**

Thank you for the opportunity to testify before you today on Senate Bill 411. I requested introduction of this bill to amend the Kansas Uniform Consumer Credit Code ("UCCC") in several areas. I will briefly describe each amendment in the order they appear in the bill and the reason for requesting the amendment.

As you know, Governor Graves requested all agencies to review all regulations with the intent to drastically reduce the burden of unnecessary and outdated regulations. I have attached my memorandum of June 19, 1995 which sets forth my review of regulations associated with this agency. Three of the four amendments requested in Senate Bill 411 will allow repeal of regulations, which is the desire of the Governor.

The first amendment requested is a new section which starts on line 14 of page one and requires an assignee of a consumer credit contract to post a payment to the contract on the same date it is received by the assignor. This will avoid delayed posting on assigned contracts where the original creditor receives the payment and then forwards the payment on to a subsequent purchaser of the contract. This amendment will allow the repeal of K.A.R. 75-6-4, which requires the same payment posting schedule this amendment would require.

The second request amends the definition of "closing costs" with respect to a debt secured by an interest in land. This amendment starts on line 14 of page two. I have requested this amendment to alleviate a serious compliance problem with lenders in the second mortgage market. This amendment will make the UCCC coincide with closing costs permitted by Federal Truth-In-Lending Regulation Z and K.S.A. 16-207(d) except that it would only allow charges payable to unrelated third parties.

Discussions with the Kansas Bankers Association revealed that the third party restriction could be a problem with the banking industry. Many rural bankers perform their own property appraisals for various reasons; one of which is the lack of qualified appraisers in rural areas. It is appropriate to allow reasonable charges for this "in-house" service, so I have prepared and attached an additional amendment that would allow such charges. I am reluctant to permit "in-house" charges other than for appraisal fees. I also intend to issue an administrative interpretation to determine "reasonable" if abuses develop.

I am confident this will alleviate the compliance problem within the industry. The violation most noted in our compliance examinations is the charging of a "closing fee" which is usually payable to a title insurance company acting as closing agent. Most mortgage lenders that do not have a physical office near the borrower use third party closing agents to close real estate loans. This is not permitted under current statute. Although this amendment will probably increase closing costs charged by certain lenders, I do not foresee widespread increases to closing costs. Most of these

*Senate 7141*  
*1/22/96*  
*Attachment #1*

charges are valid and reasonable. I have often seen these costs offset by higher finance charges. I believe that continuity with other laws, both federal and state, is compelling enough reason to justify this amendment request.

The third amendment is found on lines 19 and 20 of page 8. This amendment reflects the current index that is used in determining the dollar amount applied to maximum allowable interest rates. This will allow the repeal of K.A.R. 75-6-25 which addresses this subject. In 1978, the Federal Reserve System began publishing a more comprehensive consumer index and the administrator at that time decided to use the updated index. Future changes in the index are not contemplated, and I believe it is appropriate the statute should reflect the actual index used in the formula.

The fourth and final amendment request begins on line 30 of page 9. This will allow the repeal of K.A.R. 75-6-10 which is a very convoluted and difficult to understand regulation. This amendment does not alter the current concept that a creditor is not allowed to "compound" late charges if the consumer misses one payment but pays the others on time.

In conclusion, Senate Bill 411, if enacted, will allow the repeal of three regulations and provide more uniform compliance standards on second mortgage loans. I respectfully request favorable consideration of this bill.

4/81  
1/22/96  
1-2



# KANSAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

Bill Graves  
Governor

Wm. F. Caton  
Commissioner

## MEMORANDUM

TO: Brent Anderson, Governor's Counsel

FROM: Wm. F. Caton, Commissioner

DATE: June 19, 1995

RE: Rules and Regulations

The Kansas Uniform Consumer Credit Code (UCCC) is presently affected by 19 relatively short rules and regulations, many of which were adopted in 1974 subsequent to the passage of the UCCC. A review of each regulation follows with a recommendation to retain, repeal or amend the regulation or amend statute in order to delete a regulation.

**KAR 75-6-1. Making transactions outside of the scope of the Kansas uniform consumer credit code subject to same.** - This regulation clarifies that if both the lender and borrower agree to make a transaction subject to the UCCC which normally is not subject to the UCCC, no additional signatures are required if the contract contains admitting language.  
Recommendation: Retain as is.

**KAR 75-6-2. Finance charges, actuarial method.** - KSA 16a-1-301(1) stipulates the actuarial method be defined in rules and regulations to maintain flexibility as new financial products are utilized by the industry and federal Truth-in-Lending regulations (Reg. Z) are amended from time to time.  
Recommendation: Retain as is.

**KAR 75-6-3. Precomputed finance charges.** - The UCCC was amended in 1993 to prohibit the use of precomputed contracts due to isolated abuse by lenders who took advantage of the computation method which penalized consumers in certain instances. This amendment affects several regulations which can be repealed. Existing precomputed contracts would still be subject to these regulations which were in effect at the time the contract was executed prior to 1994.  
Recommendation: Repeal entire regulation.

**KAR 75-6-4. Payments received by the assignor.** - This regulation requires creditors to post payments the same day payment is received from the consumer. The reference to KSA 16a-2-201(4) should be 16a-3-203 to be more accurate. The UCCC and Reg. Z are silent on closed end transactions as to when payments should be posted to a consumer's account. Although I am not aware of any past or present problems in this area, a regulation or statute clarifying this topic is appropriate.  
Recommendation: Amend KSA 16a-2-201(4) and 16a-2-401(4) to include the requirement of same day posting of payments and repeal entire regulation.

**KAR 75-6-6. Computation of time.** - This regulation is necessary to accurately define this computation. This regulation was recently amended to reflect current statutes.  
Recommendation: Retain as is.

7/1 1/22/96  
- 3

Mr. Brent Anderson  
June 19, 1995  
Page 2

KAR 75-6-7. Annual percentage rate-computation of charges. KSA 16a-2-201 is silent to the use of a single interest rate that incorporates the statutorily allowed multiple step interest rates, whereas KSA 16a-2-401 specifically permits the use of a single interest rates. This regulation was adopted in 1975 to clarify this inconsistency. Interpretation of the statute is relatively straight forward and probably does not need additional clarification.  
Recommendation: Repeal entire regulation.

KAR 75-6-8. Record retention-date of final entry. - The "date of final entry" was expanded in this regulation and could be interpreted to be redundant. This office has had no significant problems regarding record retention to date and I do not anticipate future problems.  
Recommendation: Repeal entire regulation.

KAR 75-6-9. Additional charges. - This regulation was adopted in 1975 and amended in 1985 to prohibit creditors from charging consumers for certain items and excluding them from the "finance charge" and including them in "other charges" that the creditor performed or a related party performed. This regulation is now inconsistent with Reg. Z as federal law allows this practice. However, Reg. Z is only addressing disclosure and states are permitted to govern allowable charges. This regulation should be retained for the consumers' protection.  
Recommendation: Retain as is.

KAR 75-6-10. Current installment. - The definition of a "current installment" with respect to delinquency charges is clarified in this regulation. A simple amendment to KSA 16a-2-502(1) to clarify payment timing in the statute would alleviate the need for this regulation.  
Recommendation: Amend KSA 16a-2-502(1) and repeal entire regulation.

KAR 75-6-11. Conversion of precomputed loan to interest bearing basis. - Precomputed contracts are no longer permitted and this regulation is no longer necessary.  
Recommendation: Repeal entire regulation.

KAR 75-6-16. Deficiency balance. - The definition of "commercial unit of goods" is already defined in KSA 84-2-105(6) and it is reasonable to refer to that definition in the absence of an additional definition.  
Recommendation: Repeal entire regulation.

KAR 75-6-17. Date of notice to cure default and date the notice to consumer begins. - A clarification of whether a creditor could count the mailing date as one of the 20 required days for the right to cure was the purpose for this regulation. I cannot recall of any situation where a creditor exercised their cure rights on the 20th day; it is typically resolved before the 20th day and if not resolved, one day is not going to make a significant difference.  
Recommendation: Repeal entire regulation.

KAR 75-6-18. Fraudulent conduct. - Federal Truth-in-Lending and Truth-in-Leasing regulations (Reg. Z and Reg. M) now adequately address advertising requirements for lenders regarding disclosure of pertinent information. The UCCC is updated to reflect current federal regulations when KAR 75-6-26 is updated.  
Recommendation: Repeal entire regulation.

KAR 75-6-23. No assignment of earnings. - Payroll deduction authorization for periodic payments is required to be on a separate form signed by the borrower by this regulation. It prohibits any authorization from being embedded or concealed in small print on the contract. Although I am

9191  
1/22/96  
1-4

Mr. Brent Anderson  
June 19, 1995  
Page 3

not aware of any current problems in this area, I believe this is good consumer protection and should be continued.

Recommendation: Retain as is.

KAR 75-6-24. Adjustment in dollar amounts. - This regulation is the mechanism required by statute to adjust the dollar amounts used in determining maximum allowable finance charges.

Recommendation: Retain as is.

KAR 75-6-25. Change in reference base index. - A more comprehensive base index which included data that represented considerably more consumers was published by the Federal Reserve System in 1978 and the Consumer Credit Commissioner at that time opted to use the expanded consumer price index to formulate any adjustments in the dollar amounts used in determining maximum allowable finance charges. A simple amendment to the statute to specify the new index instead of the old one would alleviate the need for this regulation.

Recommendation: Amend KSA 16a-2-401a(1) and repeal entire regulation.

KAR 75-6-26. Federal truth-in-lending act requirements. - Statute mandates disclosure requirements to remain synonymous with Federal Truth-in-Lending Regulation Z and Regulation M to avoid confusing discrepancies for both the lender and consumer.

Recommendation: Retain as is.

KAR 75-6-29. Refunding precomputed installment contracts made on and after July 1, 1988. Precomputed contracts are no longer permitted under the UCCC and this regulation can be deleted.

Recommendation: Repeal entire regulation.

KAR 104-1-2. Adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. - This is a joint regulation by the Consumer Credit Commissioner, Credit Union Administrator, Savings and Loan Commissioner (now non-existent) and the Bank Commissioner regarding adjustable rate loans on real estate mortgages. It clarifies KSA 16-207b which was enacted long before adjustable rate mortgages were utilized.

Recommendation: Retain as is.

This concludes the review of all the regulations affecting this agency. If the Governor concurs with these recommendations, several regulations can be eliminated and relatively simple amendments can be made to statutes. To simplify the process and avoid multiple hearings before the Legislative committees, I would suggest that a bill be introduced to the 1996 Legislature and then repeal the recommended regulations if the bill is passed and signed by the Governor. Please contact me if you have any questions during your review. I will not proceed until an appropriate response is received from the Governor's office.

WFC:dr

4/4  
1/22/96  
1-5

1 (i) Amounts actually paid or to be paid by the creditor for registration,  
2 certificate of title, or license fees, and

3 (ii) permitted additional charges (section K.S.A. 16a-2-501).

4 (5) "Billing cycle" means the time interval between periodic billing  
5 statement dates.

6 (6) "Cash price" of goods, services, or an interest in land means the  
7 price at which they are offered for sale by the seller to cash buyers in the  
8 ordinary course of business and may include (a) the cash price of acces-  
9 sories or services related to the sale, such as delivery, installation, alter-  
10 ations, modifications, and improvements, and (b) taxes to the extent im-  
11 posed on a cash sale of the goods, services, or interest in land. The cash  
12 price stated by the seller to the buyer in a disclosure statement is pre-  
13 sumed to be the cash price.

14 (7) "Closing costs" with respect to a debt secured by an interest in  
15 land includes:

16 (a) ~~Fees or premiums for title examination, title insurance, or similar~~  
17 ~~purposes including surveys;~~

18 (b) ~~fees for preparation of a deed, settlement statement, or other~~  
19 ~~documents;~~

20 (c) ~~escrows for future payments of taxes and insurance;~~

21 (d) ~~fees for notarizing deeds and other documents;~~

22 (e) ~~appraisal fees; and~~

23 (f) ~~fees for credit reports.~~

24 (a) *The actual fees paid a public official or agency of the state or*  
25 *federal government, for filing, recording or releasing any instrument re-*  
26 *lating to the debt; and*

27 (b) *reasonable expenses incurred by the lender in connection with the*  
28 *making, closing, disbursing, extending, readjusting or renewing the debt*  
29 *which are payable to third parties not related to the lender.*

30 (8) "Conspicuous": A term or clause is conspicuous when it is so  
31 written that a reasonable person against whom it is to operate ought to  
32 have noticed it. Whether a term or clause is conspicuous or not is for  
33 decision by the trier of fact.

34 (9) "Consumer" means the buyer, lessee, or debtor to whom credit  
35 is granted in a consumer credit transaction.

36 (10) "Consumer credit sale":

37 (a) Except as provided in paragraph (b), a "consumer credit sale" is  
38 a sale of goods, services, or an interest in land in which:

39 (i) Credit is granted either by a seller who regularly engages as a seller  
40 in credit transactions of the same kind or pursuant to a credit card other  
41 than a lender credit card,

42 (ii) the buyer is a person other than an organization,

43 (iii) the goods, services, or interest in land are purchased primarily

, except that reasonable fees  
for an appraisal made by the  
lender or related party are  
permissible.



Kansas  
Credit  
Union  
Association

Testimony on SB 411  
AN ACT concerning the UCCC

Presented to the  
Senate Committee on Financial Institutions and Insurance  
January 23, 1995

Mr. Chairman and members of the Committee:

I am Danielle Noe and I am the Governmental Affairs Director for the Kansas Credit Union Association. Our association represents 158 credit unions who sever more than 600,000 members.

We are here today in support of SB 411.

SB 411 makes two primary changes to the Uniform Consumer Credit Code. The first change found in Section 1, would remove the list of specific costs that can be considered as closing costs. The new language would allow actual fees paid to public officials and state or federal agencies and reasonable other expenses paid to other third parties.

The new language would allow for flexibility in determining closing costs which can be charged in connection to a debt secured with an interest in land. The UCCC allows financial institutions to recoup actual costs associated with fees charged by third parties. However, we have experienced situations where there were actual fees paid by the credit union but which could not be charged directly to the member.

The second significant change relates to how a payment should be applied when there is a delinquency. Under the existing law, there is no specific language saying how delinquent payments should be applied to an account. SB 411 would clarify

816 SW Tyler  
Topeka, KS 66612  
(913) 232-2446  
(913) 232-2730 fax

8410 W. Kellogg  
Wichita, KS 67209

P.O. Box 757  
Dodge City, KS  
67801

Senate 7141  
1/22/96  
Attachment # 2

that when a payment is made prior to the due date of the next installment, the payment shall be applied to the previous installment, in order to determine when delinquency charges apply. The change in Section 4 will simply clarify what is already occurring in many financial institutions. In addition, many credit unions have not been charging a delinquency fee because their data systems could not determine how to apply a payment. In order to track delinquency fees, it is done manually by many credit unions. This clarification should allow most data systems to be programmed to charge fees when there is a delinquency.

Mr. Chairman, we thank you for the opportunity to testify and urge you to vote favorably on the passage of SB 411.



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 22, 1996

Re: Senate Bill No. 411

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Committee on Financial Institutions and Insurance in support of SB 411.

This bill would bring about greater conformity to similar provisions of state law when describing what closing costs for a loan may be charged to the borrower. Credit items such as second mortgages are covered by KSA 16a-1-301 (7), dealing with closing costs for debts secured with a land interest. Without SB 411, this section offers a delineated list of eight items that may be assessed as closing costs.

The language contained in KSA 16-207 (d) is more appropriate for the task of assessing legitimate closing costs to the borrower. The law allows collection of the actual fees paid to a government entity and reasonable expenses incurred by the lender.

Consumers are protected in SB 411 by the requirement that any assessed "reasonable expenses" must be payable to a third party unrelated to the lender.

The bill also safeguards borrowers by requiring that delinquent payments made prior to the due date of the next installment be applied to the previous, delinquent payment. A majority of our members already follow this practice.

We respectfully request that the Senate Committee on Financial Institutions and Insurance recommend SB 411 for passage.

Thank you.

*Senate 411  
1/22/96  
Attachment #3*

# **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-411  
Monday, January 22, 1996

Mr. Chairman and members of the committee, my name is George Barbee, Executive Director of the Kansas Association of Financial Services.

I appreciate the opportunity to appear in support of Senate Bill-411 which would simplify a very confusing part of the Uniform Consumer Credit Code relating to the charge of fees to recover costs of making loans secured by real estate. Specifically, closing costs.

Closing costs are defined in 16a-1-301-(7) beginning with line 16 of page two in the bill. While a closing cost is defined, a closing fee is not defined, and therefore not allowed even though the consumer finance lender is paying a closing fee to a third party, usually a title insurance company, to perform the actual closing of the loan.

The amendment proposed by Commissioner Caton would clear up this confusion on compliance by allowing "reasonable expenses."

The Kansas Association of Financial Services representatives have discussed this amendment with Commissioner Caton and we are satisfied that he will exercise his responsibility to the consumer in determining reasonableness if third parties are erratic in their fee schedules.

In regard to the proposed amendment on this subject, we would seldom use our own appraisers or closing agents, but we do consider this a friendly amendment and it is supported by KAFS.

We view the other amendments as printed in Senate Bill-411 to meet the directives of the Governor to the Commissioner and we support those as well.

Thank you for the opportunity to appear in support of this bill as we urge you to report it favorably. I would be glad to stand for questions, should there be any.

*Senate 7/41  
1/22/96*



# Kansas State Department of Credit Unions

400 Kansas Avenue, Suite B  
Topeka, KS 66603  
Phone (913) 296-3021  
FAX (913) 296-6830

January 22, 1996

## Statement by John P. Smith, Administrator, Kansas Department of Credit Unions to the Senate Financial Institutions and Insurance Committee in support of Senate Bill No. 434:

The proposed amendment to K.S.A. 17-2204a:

1. Provides authority for the administrator to adopt *rules and regulations* for credit union services organizations. Rule and regulatory authority will provide flexibility for the administrator to supervise and examine credit union services organizations as needs of credit unions and examination procedures change.
2. Provides authority for a Kansas credit union to form a credit union services organization. Current Kansas law requires two or more credit unions to form a credit union services corporation. This change will provide parity with federal credit union law.
3. Changes the term "credit union services corporation" to "*credit union services organization*". This change updates Kansas law and utilizes the term most often used to describe this type of organization.
4. Provides for credit unions in addition to making investments in credit union services organization, *to make loans* to these organizations. This change will provide parity with federal credit union law.
5. Clarifies the definition of the limit of 2% of the credit union's investment to specify "unimpaired shares, reserves and undivided earnings". This change will provide parity with federal credit union law.
6. Revises the definition of credit union services organization to that more commonly used today. This change will provide parity with federal credit union law.

Senate 4141  
1/22/96  
434test1, January 18, 1996, 2:28 PM  
Attachment #5

**Statement by John P. Smith, Administrator, Kansas Department of Credit Unions in support of Senate Bill No. 434:**

Today there is one credit union services organization formed by four Topeka credit unions to operate a shared service center. The department has received inquiries about forming a credit union services organization from single credit unions. These requests have been denied since current Kansas law does not provide authority for a single credit union to form a credit union services organization. The proposed amendments updates Kansas law, provides flexibility for the operation of Kansas credit unions, and provides parity with credit unions organized and chartered by the National Credit Union Administration.

Two corrections are required in the language of Senate Bill No. 434. These are:

1. In line 10 and 29 the term *service* should be changed to *services* to assure consistent use of the term *credit union services organization* throughout the bill.
2. In line 31 the term *individual* should be changed to *undivided*.

Respectively submitted:



John P. Smith  
Administrator

4141 1/22/96  
5-2

# **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-437  
Monday, January 22, 1996

Mr. Chairman and members of the committee, my name is George Barbee and I am representing the Kansas Association of Financial Services. I appreciate the opportunity to appear today in support of Senate Bill-437.

Senate Bill-437 addresses a change in the points that are presently permitted to be contracted for by a supervised lender on any consumer loan secured by an interest in land. These origination fee points are presently limited by statute not to exceed 3%. This bill would increase the allowable fee to 5%.

The bill also addresses origination fees on closed end loans not secured by real estate by raising the allowable points from 2% to 5%.

Note that first mortgage loans are exempt from the entire Uniform Consumer Credit Code, as are second and other subordinate mortgage loans made by the same lender as the first mortgage. This origination fee section for loans secured by land primarily affects home improvement loan lenders and others who take second mortgages without also having made the first mortgage loan.

It costs approximately \$440 to book one of these real estate loans. We incur many of the same costs in making a second mortgage loan as do the makers of the first mortgage. We are required to complete disclosure forms, verify employment history, verify credit history, perform inspections, and give notice to married applicants, to name a few of the expensive steps.

Competition is severe and just because you spent the \$440 average to book a loan is no guarantee that you will keep the loan and recover your full cost. The borrower is interested in the lowest payment possible and it is not at all unusual that they will refinance at the urging of competitors after the balance has been paid down to make refinancing feasible.

Please keep in mind that just because the statutes allow points for an origination fee does not mean that they are always contracted for in the loan. There is a great deal of negotiation in the making of a loan secured by land. The consumer

has more information today and is quick to point out their own particular credit history and the resultant level of risk to the lender. Some loans will be made at the upper limit that these amendments would allow, as well as others being made at less than the limit.

The cost of doing business for making closed end loans not secured by land also continues to increase. The average loan is approximately \$2,500 with an average term of 34 months. It costs approximately \$90 to book a small loan. The cost is to verify employment, verify income, verify collateral, and perform credit checks. Unfortunately, the cost for loan processing is incurred for approved loans and denied loans. On the average, 60% of loan applications are turned down.

This origination fee also can be waived or reduced based on the level of credit worthiness of the borrower. Sometimes the fees are even removed or absorbed by retailers. You occasionally see advertisements for automobiles or merchandise offered with no interest, no fees or closing costs for 90 days. Sometimes referred to as same as cash sales.

The statute limits the total dollar amount that can be charged on a closed end loan not secured by real estate to \$100. The bill would amend this amount upward to \$150. The \$100 level was established in 1986. Inflation compounded since 1986 equals 143%. The suggested amount in Senate Bill-437 would adequately compensate for past inflation and for approximately two years of future inflation.

Finally, Commissioner Caton is proposing an amendment to limit origination fees to loan balances older than six months when renewing or consolidating a previous consumer credit transaction. The KAFS members agreed to this provision in 1995 and agree with its inclusion in the statutes.

Mr. Chairman, on behalf of KAFS we urge you to pass Senate Bill-437 favorably as amended.

JH  
1/22/96  
6-2



STATE	POINTS PERMITTED	PREPAYMENT PENALTIES ALLOWED (IN SOME FORM)	RULE OF 78s REFUNDS
ALABAMA	CAP-5	NO	< 61 MO.
ARIZONA	YES	YES	N/A
CALIFORNIA	CAP-5	YES	N/A
COLORADO	YES	NO	YES
CONNECTICUT	CAP-8	YES	N/A
DELAWARE	CAP-5	YES	N/A
FLORIDA	CAP-4NR CAP-10REF	YES	N/A
GEORGIA	YES	YES	N/A
HAWAII	YES	YES	N/A
IDAHO	YES	NO	< 61 MO.
ILLINOIS	CAP-3	NO	YES
INDIANA	CAP-2	YES	YES
IOWA	YES	NO	N/A
KANSAS	CAP-3	NO	N/A
KENTUCKY	YES	YES	N/A
LOUISIANA	CAP-5	YES	YES
MARYLAND	CAP-2	NO	N/A
MASSACHUSSETTS	YES	NO	N/A
MICHIGAN	CAP-2	YES	N/A
MINNESOTA	NO	NO	N/A
MISSOURI	CAP-2	YES	N/A
MONTANA	YES	NO	< 61 MO.
NEVADA	YES	YES	N/A
NEW HAMPSHIRE	YES	YES	N/A
NEW JERSEY	NO	NO	N/A
NEW MEXICO	YES	NO	N/A
NEW YORK	YES	NO	N/A

7/21  
1/22/96  
6-3

STATE	POINTS PERMITTED	PREPAYMENT PENALTIES ALLOWED (IN SOME FORM)	RULE OF 78s REFUNDS
NORTH CAROLINA	CAP-2	YES	N/A
OHIO	YES	YES	<61 MO.
OKLAHOMA	YES	NO	<61 MO.
OREGON	YES	YES	N/A
PENNSYLVANIA	YES	NO	N/A
RHODE ISLAND	YES	NO	N/A
SOUTH CAROLINA	CAP-4	NO	<61 MO.
SOUTH DAKOTA	NO	NO	N/A
TENNESSEE	CAP-4	NO	<61 MO.
UTAH	CAP-5	NO	N/A
VIRGINIA	CAP-5	NO	N/A
WASHINGTON	YES	NO	<37 MO.
WEST VIRGINIA	NO	NO	<36 MO.
WISCONSIN	NO	NO	<\$5K & <37 MO.
<b>SUMMARY</b>	5 NO 19 YES 17 WITH CAPS  41 TOTAL	24 NO 17 YES  41 TOTAL	27 N/A 4 AVAILABLE 10 WITH LIMITS  41 TOTAL

411  
1/22/96  
6-4

## SENATE CONFIRMATION QUESTIONNAIRE

Office of Governor Bill Graves

Please complete and return this form to the Governor's Appointments Office. Attach additional sheets if necessary.

Name: RAY Shepherd  
 Home Address: 1402 South Horton  
 City, State, Zip: Fort Scott, Kansas 66701  
 Business Address: RAY Shepherd Motors Inc DBA Shepherd Team Auto P/O  
 City, State, Zip: US 69 So, 1819 So. MAIN Ft Scott, Kans. 66701  
 Home Phone: 316-223-0476 Business Phone: \_\_\_\_\_  
 Date of Birth: 7-23-1919 Place of Birth: Boonville, Missouri  
 Party Affiliation: Republican KBI Check:  NA  In Process  Complete  
 Appointed as: member State Bank Board  
 Appointment Date: June 22, 1995 Expiration Date: March 15, 1998  
 Term Length: 3 years Statutory Authority: K.S.A. 74-3004  
 Salary: 35<sup>00</sup> per meeting Predecessor: Reappointed  
 Statutory Requirements: See attached

### BACKGROUND

1. List high school, college, or other education institution attended along with the date attended and degree conferred.

Education Institution	Dates	Degree
<u>Plattsburg High School</u>	<u>1937</u>	<u>graduate</u>
<u>William Jewell College</u>	<u>1937-8</u>	<u>Need to quitte Fathers illness</u>
<u>General Motors - Detroit Chevrolet Dealers Sr. School</u>	<u>Completed - 1939 - June</u>	

2. List memberships in business, trade and professional organizations for the past 10 years.

Organization	Dates
<u>ENClosed</u>	

3. List any public offices you have been elected or appointed to, along with the dates of service.

Office Held	Dates	Senate
<u>KANSAS State Highway Commission</u>	<u>Two terms</u>	<u>7141</u>
<u>Commissioner 4th Division</u>	<u>1993-1995</u>	<u>1/22/96</u>
<u>STATE BANK Board</u>	<u>MAY 1 - Reappointed</u>	<u>Attachment #7</u>

4. List any position: \_\_\_\_\_ with a foreign, federal or local government entity along with the dates of service.

Position	Government Entity	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. List any lobbying activities you have been involved in during the past five years. This includes activities as a registered lobbyist or lobbying activities for which you were compensated.

Group	Compensation (yes/no)	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. List experience or interests which qualify you for the position to which you have been appointed. Helped organize A BANK - served as its chairman for 25 years. Had experience in that capacity to know a great deal about Banking. The BANK is now owned by WMB.

7. Summarize business and professional experience. Attached sheet

8. List any service in the United States military. Include dates of service, branch, date and type of discharge.

Branch	Discharge	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

9. Provide details of any arrest, charge or questioning by a federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance (excluding traffic violations for which a fine of \$100 or less was imposed).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. List and provide details of any interests that may present a conflict of interest for this position.

\_\_\_\_\_  
\_\_\_\_\_

I, Ray Shepherd, declare that this questionnaire is true, correct and complete to the best of my knowledge.

Ray Shepherd  
Signature

November 13, 1995 - 7141  
Date 1/22/96  
7-2

# Introducing Ray Shepherd



Kansas Motor Car Dealers Association.

Past President  
 Past Vice President  
 Past Treasurer  
 Past Regional Vice President  
 Board of Directors

Kansas Quality Dealer, 1981

Natl. Auto. Dealers Assn. Quality Dealer of the Year, 1981

Time Magazine National Quality Dealer Winner, 1981

Ford Mtr. Co. Gov. Affairs Comm, State of Kansas 1974

(Co-Chaired with Merle Kelly, Chanute)

Chrysler-Plymouth Dealer Council (National)

St. Louis Lincoln-Mercury Dealer Advertising Association  
 Past President and Director

Mid-West Ford Dealers Advertising Association  
 Board Member, Past Pres.

Dodge Dealers Council—three terms

Chrysler-Plymouth Dealers Adv. Assoc.—Past-President

Lincoln-Mercury Dealers Council—District and Regional

Ford Dealers Council—six terms

Small Business Adm. Bd. [REDACTED]

*Ford Motor Co. Consumer Arbitration Board  
 met each month - 3 person Board  
 served 5 years*

State Highway Commission—served two terms as Commissioner

University of Kansas, Pittsburg

Automotive Technology Board, one term *served 10 years*

Mercy Hospitals of KS—Ch. of Bd.—Mercy Hospital, Fort Scott, KS; Mercy Hospital, Independence KS

McPherson College—Board of Trustees, Executive Board, *still serving in that capacity*

Security State Bank, Fort Scott

Chairman of Board [REDACTED] organized in 1962 — *25 years*

First Christian Church, Fort Scott

Elder, Trustee, Past Deacon and Chairman of the Board

Ray Shepherd Mtrs. Inc., and Team Mtrs., [REDACTED], Fort Scott

Chairman of Board

Ray Shepherd Leasing Co., Inc.—Chairman of Board

Red Cross, Fort Scott, Past Chairman and Director

YMCA Director for 24 years

Fort Scott Area Chamber of Commerce

Past Director and Chairman

United Way, Fort Scott

Past Director and Chairman, Drive Chairman

KS Assoc. of Commerce and Industry—Past Director

Fort Scott Industries (Industrial Arm of Area Chamber of Commerce)

Past Director and President

Fort Scott Rotary, *PAUL HARRIS Fellow*

Mid-America—Parsons—County Industrial Development, Southeast Kansas

Director 16 years, Vice President

Mo-Kan Area Council Boy Scouts

Board

Masonic Orders: 32° KCCW

AF & AM; Scottish Rite; York Rite; Royal Arch; Grand Commandry; Eastern Star; Shrine; Kansas

Masonic Foundation and Trustee

National Automobile Dealers Assoc.—McLEAN VA. (Washington D.C.)

Elected 2 terms — 34 yrs each 1990-1996

KANSAS DIRECTOR

*7/21  
 1/22/96  
 7-3*

L. 1989, ch. 230, § 1; Repealed, L. 1989, ch. 229, § 4; April 27.

**74-2914.**

History: L. 1979, ch. 242, § 7; Repealed, L. 1989, ch. 229, § 4; April 27.

**74-2915.**

History: L. 1986, ch. 289, § 1; L. 1987, ch. 294, § 2; Repealed, L. 1989, ch. 229, § 4; April 27.

**Article 30.—STATE BANKING BOARD****Cross References to Related Sections:**

Banking code, see ch. 9, arts. 7 to 20.

State bank commissioner, see ch. 75, art. 13.

**74-3001 to 74-3003.**

History: L. 1925, ch. 256, §§ 1 to 3; Repealed, L. 1947, ch. 102, § 143; June 30.

**74-3004.** State banking board; qualifications; appointment, senate confirmation, residence requirements; terms; vacancies. (a) There is hereby created a state banking board which shall be composed of nine members. Six members of the board shall be bankers with not less than five years' actual banking experience in a state bank in this state and three shall represent the public interest in the regulation, operation and control of state banks and trust companies. All members shall be selected from the state at large. No nonbanker member shall concurrently serve as an officer or director in any state or national bank or trust company wherever located. One of the nine members shall be elected annually as chairperson of the board. The board shall be appointed by the governor. Persons appointed to the board shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Subject to the provisions of K.S.A. 1992 Supp. 75-4315c, of the six banker members, the governor shall appoint one from each Kansas congressional district as presently constituted and the remainder from the state at large. Appointment of nonbanker members shall be made with due consideration for achieving representation of the various geographic sectors of the state.

(b) Terms of members of the board shall begin on May 1 and shall be for three years. Each member shall serve until a successor is appointed and qualifies. No person shall serve more than two terms as a member of the board. In the event of a vacancy on the board, the governor shall appoint a new member of

the same qualification to fill the unexpired term.

History: L. 1947, ch. 102, § 100; L. 1961, ch. 387, § 1; L. 1978, ch. 308, § 62; L. 1981, ch. 299, § 55; L. 1982, ch. 347, § 36; L. 1987, ch. 54, § 13; L. 1992, ch. 262, § 11; July 1.

Source or prior law:  
74-3001.

**Revisor's Note:**

The state banking board was reestablished and continued in existence by act of the legislature in 1981, see 74-7273.

**Research and Practice Aids:**

Banks and Banking — 17.

C.J.S. Banks and Banking § 35.

**74-3005.** Compensation and expenses; secretary; records. Members of the state banking board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223. The commissioner shall act as secretary for said board and shall keep a permanent record of all meetings and proceedings of said board in his office.

History: L. 1947, ch. 102, § 101; L. 1974, ch. 348, § 61; July 1.

Source or prior law:  
74-3001.

**74-3006.** Meetings; quorum; access to records; advisory. The board shall meet once each month, on such dates as it shall agree upon, and shall meet at such other times as the board may deem necessary or when called by the chairman of the board or any three members thereof. Six members of the board shall constitute a quorum, and a majority vote of the board shall be necessary to carry any question, and no action of said board shall be taken except in a formal meeting and after a favorable vote of a majority of the entire board. The members of the board during business hours shall have free access to all of the records in the office of the commissioner. The board shall act in an advisory capacity in all matters pertaining to the conduct and welfare of the banking department and the administration of the banking laws of this state except as herein otherwise specifically provided.

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

Source or prior law:  
74-3002, 74-3003.

**Cross References to Related Sections:**

Certain records deemed confidential, see 9-1712.

7/22/96  
7-4



**OWNERSHIP INTERESTS:** List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income in, which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here .

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
1. RAY Shepherd Motors INC 13A Shepherd TEAM Auto PLAZA	Auto DEALERSHIP	75%	<input type="checkbox"/> You <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
2. (SON, DAVID R. SHEPHERD)	owns	25%	<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
3. RAY Shepherd LEASING INC (SON DAVID R. SHEPHERD)	Auto LEASING owns 100%	100%	<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
4.	I am on Board		<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
5.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
6.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
7.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	

**D. GIFTS OR HONORARIA:** List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months. If you have nothing to report in Section "D", check here .

NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1. None		
2.		7/21/96
3.		1/22/96

7-6



**RECEIPT OF COMPENSATION:** List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE \_\_\_\_.  
If you have nothing to report in Section "E"1, check here .

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.			
2.			

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.  
If you have nothing to report in Section "E"2, check here \_\_\_\_.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	House wife		
2.			

**OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS:** List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section. If you have nothing to report in Section "F", check here \_\_\_\_.

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	RAY Shepherd Motors INC DB A Shepherd & Team Auto Plaza FT Scott, Ks U.S. 69 South	Chairman	RAY
2.	Mc Pherson College Mc Pherson, Ks	Member Board Trustees - Secy of Corp. Bond	RAY
3.	National Auto Dealers Ass'n, McLean Va. 8400 West Park Drive	KANSAS Director Member	RAY
4.	KANSAS Auto Dealers Ass'n Topeka MERCHANTS NAT'L BANK Bldg.	Executive Board	RAY
5.	FIRST CHRISTIAN Church FT Scott, Ks " " " " " "	FINICAL Secy - Board	MARY RAY
6.	KANSAS Masonic Foundation, INC 800 W. 8th Topeka, Ks	Board Member	RAY
7.	Presbyterian Village - FT Scott	" "	RAY
8.	KANSAS Dealer Review Board - Topeka Docks Office Bldg Topeka, Ks	" "	RAY
9.	Listed (c)		

4107  
1/22/96  
7-11

**RECEIPT OF FEES AND COMMISSIONS:** List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here .

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

**DECLARATION:**

I, Ray Shepherd, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

April 9, 1995  
Date

Ray Shepherd  
Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES \_\_\_\_\_.

Return your completed statement to the Secretary of State, State House, Topeka, Kansas 66612.

71-1  
1/22/96  
7-8