

Approved: January 23, 1997
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on January 16, 1997 in Room 529-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Newton Male, State Banking Commissioner
John Smith, Credit Union s
William Caton, Consumer Credit Department

Others attending: See attached list

Newton Male, State Banking Commissioner, introduced the Deputy Commissioner, Judy Stork. Their office oversees 283 banks, nine trust companies, one savings and loan association, 88 trust departments, 160 mortgage brokers, and 16 money transmitters. The Department operates with a nine-member board comprised of six bankers and three citizens from other professions. The Department has 53 commercial bank examiners, four review officers, an application officer, two attorneys, a legal assistant and clerical staff. Their examiners are in the state banks and bank holding companies every 18 months for regulation and examination purposes. CAMEL (capital, assets, management, equity, liquidity) ratings are given to banks based on such examinations. Mr. Male reported that the Kansas banking industry was in very good shape. Ninety percent of Kansas banks have a 1 or 2 CAMEL rating with only one bank in the state having a 4 rating (Attachment 1)

Committee discussion included concern that it appears the major goal of commercial bankers is to protect depositor's money and make payments to stockholders rather than to make money available to new companies. The holding of approximately 3/4 billion dollars in vaults rather than to make it available for lending purposes is hurting economic development in the state. Have the banks of Kansas become savings and loans and spend most of their loanable funds on real estate? Banks average a 65% loan deposit rate in Kansas. The Bank Commissioner assured the Committee there has never been more competition in the banking industry than is being experienced at this time. Mr. Male voiced support of a proposal which would create another savings and loan in the state.

Mr. Male was invited to return to the Committee at a later date for further discussion of a recent report which included statements that economic development problems in Kansas were directly related to the reluctance of banks to loan money for new industries unless they were highly secured.

Mr. Bill Caton, Consumer Credit Commissioner, reviewed the history of consumer credit acts and stated that their purpose was to regulate interest rates and disclosure on consumer loans, and conduct of consumer lenders and retail credit grantors (excluding banks, savings and loans, and credit unions (Attachment 2)). They do not regulate the credit card industry as most of them are issued from the thirteen deregulated states. Such states do not have inspection of usury rates and fees but let the contract dictate the terms. Mr. Caton said that retailers would be asking for deregulation as the market is basically driven by competition.

John Smith, Administrator of the Credit Unions, stated that their purpose is to provide a regulatory environment in which Kansas chartered credit unions may thrive and prosper without subjecting their members and the citizens of Kansas to undue risks (Attachment 3). Only one new credit union charter has been issued in eight years and that is in Wichita. Two of the largest credit unions are in Kansas and provide money for other credit unions. U.S. Central in Overland Park has assets of \$17,975,000,000. The CAMEL rating system is used in risk management assessment. Mr. Smith suggested that the definition of "common bond" be discussed by the Committee

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 16, 1996.

John Smith, Credit Union, requested the introduction of legislation which would discontinue the need for bylaws designating the number of board members which make up a quorum as the board members are all volunteer and do not receive any pay for serving (Attachment 4).

Senator Barone moved that this request be introduced into legislation. Motion was seconded by Senator Biggs. Motion carried.

John Smith, Credit Union, requested the introduction of legislation which would repeal KSA 17-2223a and require that credit unions organized under the federal credit union act may be required to submit at least every 18 months an examination report under the auspices of the Nation Credit Union Administration (Attachment 5).

Senator Corbin moved that the draft be introduced into legislation. The motion was seconded by Senator Becker. Motion carried.

The meeting adjourned at 10:05 a.m. The next meeting is scheduled for January 21, 1997.

**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**

BANKING STRUCTURE

Office of the Comptroller of the Currency

Charter, regulate, and examine national banks.

Office of the State Bank Commissioner

Charter, regulate, and examine state chartered banks.

Federal Deposit Insurance Corporation

Insure the deposits in all Kansas banks, both state and national.
Have the power to examine both state and national banks.
Routinely examine state banks which are not Federal Reserve members.

Federal Reserve Bank

Regulate and examine state banks which are members of the Federal Reserve System.
Regulate and examine bank holding companies. (All national banks are required to be members of the Federal Reserve but are not examined by the Federal Reserve.)

*Senate F.D.I.C.
Attachment 1
January 16, 1997*

OVERVIEW
OFFICE OF CONSUMER CREDIT COMMISSIONER

I. HISTORY

1955 - Small Loan Act created office

1958 - Kansas Sales Finance Act

1961 - Kansas Investment Certificate Act

1969 - Federal Truth-in-Lending Act

1974 - Kansas Uniform Consumer Credit Code (UCCC)
Kansas Fair Credit Reporting Act

1983 - Kansas Investment Certificate Guaranty Fund Act (repealed 1995)

1991 - Kansas Credit Services Organization Act

2. PURPOSE - To regulate interest rates and disclosure on consumer loans, and conduct of consumer lenders and retail credit grantors (excluding banks, S & Ls, and Credit Unions)

3. MISSION - To do as little as possible to interfere with the consumer lending industry while adequately protecting the consumer from unscrupulous lenders

4. OPERATION

7 employees: 4 examiners (1 addition in 1996), 2 support staff and commissioner
(3 employees have combined 75 years with agency)

Annual budget - approximately \$450,000 annually, including \$70,000 grant to Kansas Council for Economic Education and \$10,000 grant to Housing and Credit Counseling, Inc. for consumer education

Revenues - derived from fees charged to consumer lending industry - 20% goes to general fund to pay for support services

5. MAKEUP OF INDUSTRY

1995 - Licensed supervised Lenders and Financial Organizations - 316

Retail Credit Grantors - 5,704

(FY 1996 - 126 new licenses - 75 to mortgage companies)

(FY 1997 to date - 31 new licenses - 25 to mortgage companies)

Outstanding credit balances - \$1.88 Billion

Virtually no credit cards issued in Kansas - most issued in deregulated states

6. IMPORTANT RELATIONSHIPS

Kansas Association of Financial Services

Kansas Bankers Association

Community Bankers Association

National Association of Consumer Credit Administrators

American Conference of Uniform Consumer Credit Code States

Senate FDS
Attachment 2
January 16, 1997

**OFFICE OF THE
CONSUMER CREDIT COMMISSIONER**

1995 ANNUAL REPORT

**WM. F. CATON
COMMISSIONER**

**REPORT OF USE OF CONSUMER CREDIT
UNDER THE
KANSAS UNIFORM CONSUMER CREDIT CODE**

- Part I. History of the Consumer Credit Commissioner's Office
- Part II. Consumer Education
- Part III. Creditors Registered with Administrator and Examinations
- Part IV. Number and Nature of Violations and their Disposition
- Part V. Use of Credit in Kansas
- Part VI. Volume of Consumer Credit Extended by Fee Paying Creditors
- Part VII. Extent to Which Rules of the Administrator are in Harmony with Those of Other Code States

Part I. History of the Consumer Credit Commissioner's Office

This agency was created in order to administer the Kansas Consumer Loan Act, K.S.A. 16-401, when it was passed by the 1955 Session to take effect on July 1, 1955.

The department was greatly increased on May 14, 1958, when the Kansas Sales Finance Act, K.S.A. 16-501, was effective. This act covered the installment sale of goods and services including motor vehicles and required the licensing of all sales finance companies.

The department was again expanded in 1961 when the Investment Certificate Act, K.S.A. 16-601, was passed. The commissioner was authorized to issue investment certificate authority to loan companies who accepted investments from the public, and to examine them for solvency. (This industry has collapsed and this responsibility of the Consumer Credit Commissioner will end when the last companies are liquidated through bankruptcy and the act will probably be repealed).

The department was again greatly expanded on July 1, 1969 when the Truth-in-Lending Act, K.S.A. 16-801, became effective which required about 6,000 retail credit grantors to file notification and pay annual notification and volume fees.

With the exception of the Investment Certificate Act, all the previous laws regulating consumer credit and interest rates were replaced by the terms of K.S.A. 16a-1-101, the Uniform Consumer Credit Code, which was effective January 1, 1974. The Consumer Credit Commissioner was designated as the administrator.

Part II. Consumer Education

An additional responsibility of the Consumer Credit Commissioner is the education of the consumers with respect to credit practices. During 1995, a grant in the amount of \$70,000 was transferred from the consumer credit fee fund to the Kansas Council on Economic Education for this purpose. This grant, funded by fees paid by the financial services industry, is viewed by the industry as their partnership in consumer education in Kansas. Subsequently, the Commissioner has taken an active role on the Executive Board and has helped implement programs and instruct classes around the state. The Office of the Consumer Credit Commissioner also distributes brochures and pamphlets to consumers to promote consumer credit education. The Commissioner also requested and received a \$5,000 grant for FY 95 and \$10,000 for FY 96 to Housing and Credit Counseling, Inc., a non-profit organization dedicated to counseling financially troubled families.

Part III. Creditors Registered with Administrator and Examinations Conducted During the Year

A. Registered with the Consumer Credit Commissioner's Office in 1995:	
1. Licensed Supervised Financial Organizations	60
2. Licensed Supervised Lenders	256
3. Non-Licensed Creditors (retail credit grantors sales finance companies and branch stores)	5,704
B. Examinations Conducted:	
1. Licensed Supervised Lenders	78
2. Non-Licensed Creditors	31

K.S.A. 16a-2-305(1) states in part, "The administrator shall examine periodically at intervals the administrator deems appropriate the loans, business and records of every licensee except licensees which are supervised financial organizations. The official or agency responsible for the supervision of each supervised financial organization shall examine the loans, business and records of each such organization in the manner and periodically at intervals prescribed by the administrator".

Examinations are assigned on a yearly basis. The examiners are not directed to follow any particular sequence of examining, but are to use their own techniques based upon their experience to determine compliance with all the provisions of the code and Regulation Z. This includes checking at least 10% of all open and paid accounts in order to determine the permissibility of finance charges, additional charges, closing costs, insurance premium charges, delinquency charges and deferral charges. In addition, the examiner reviews copies of the disclosure statements given to the debtor to determine whether disclosures have been given in accordance with the law. Paid transactions are examined to determine that debtors received the proper refunds of unearned finance charges, unearned credit insurance premiums and unearned deferral charges. Licensed supervised lenders are currently scheduled to be examined at least once in an eighteen month period. New licensees are usually examined within six months. Significant increases in new licensees has challenged the examination staff to meet the examination schedule.

Upon receipt of a complaint involving a consumer credit transaction, the office investigates the complaint to determine if a violation of the code has occurred. An examiner may be sent to the creditor's place of business to investigate the alleged violation, as well as examine all documents relating to the specific credit transactions. If a violation is disclosed, the creditor is required to make the proper refund, adjustments, or disclosures to satisfy the complaint.

Part IV. Number and Nature of Inquires and Complaints

A. There were 2,188 complaints and inquiries filed with the Administrator. The major subjects of those complaints and inquiries are:

- Interest & Insurance Overcharges or Refund Errors
- Lien Releases
- Explanation of Charges, Refunds, Disclosures, Leases, etc.
- Notification and License Requirements
- Loan Brokers
- Consumer Education Information
- Fair Credit Reporting Act
- Miscellaneous - Non-Code

Approximately 60% of these inquiries and complaints are related to fees, charges, interest, disclosures and refunds on consumer credit transactions. Approximately 20% are related to notification and licensure, 10% to Fair Credit Reporting Act and the other 10% on various other consumer concerns. The vast majority of complaints are caused by consumer confusion on the complex disclosure requirements placed on lenders by Truth-in-Lending Regulation Z. These complaints are quickly resolved. Overall, the Administrator's staff resolves most complaints and inquiries the same day.

B. As a result of Examinations Conducted by the Administrator:

<u>Number of Creditors Involved</u>	<u>Number of Individual Cases</u>	<u>Nature</u>	<u>Refunds to Consumers</u>
Consumer Loans:			
60	326	Interest Overcharges	\$19,225.10
29	133	Insurance Overcharges	12,851.38
<u>51</u>	<u>433</u>	Miscellaneous	<u>34,572.92</u>
140	892		\$66,649.40
Sales Finance:			
25	111	Interest Overcharges	\$ 4,261.81
0	0	Insurance Overcharges	0.00
<u>1</u>	<u>1</u>	Miscellaneous	<u>20.42</u>
26	112		\$ 4,282.23

This office does not view larger numbers in these categories as successful supervision. On the contrary, lower numbers indicate lenders are properly applying consumer laws and regulation which is a goal of this agency. The increase in these figures is attributable to the regulation of a relatively new industry called "payday loan companies". We anticipate errors will decrease as this industry matures and we are able to educate the members and address error problems.

Part V. Use of Credit in Kansas

National figures indicate that consumer credit now exceeds \$1 trillion. In 1995, additional fees were paid on a total of \$1,888,098,958 which was extended to Kansas consumers by credit grantors. This figure excludes consumer credit issued by banks, savings and loans, credit unions and credit card debt issued by lenders not domiciled in Kansas and probably represents less than 10% of consumer credit owed by Kansas consumers. Recent trends have seen credit grantors focus on increased real estate lending as well as significant increases in small, short term, unsecured loans by a fragment of the industry known as "pay day loans".

Part VI. Volume of Consumer Credit Extended by Fee Paying Creditors

Following is a record of the number of registration and notification fees paid under the Uniform Consumer Credit Code during the year ending:

	<u>12-31-94</u>	<u>12-31-95</u>
Registrations	3,708	3,736
Branches	1,998	1,968
Annual Fees	\$138,425	\$138,050
Number of Volume Fees Paid	413	421
Volume Fees	\$341,478	\$339,858

Creditors engaged in this state in entering into consumer credit transactions or those having an office in this state who take assignments of and undertake direct collection of payments must file notification and pay a \$25.00 annual fee for each office or store in this state.

They must also pay a volume fee of \$18.00 per \$100,000 or part thereof in excess of \$10,000, and which is above the first \$100,000, of consumer credit sales, loans or leases made during the year.

The additional fees of \$339,858 are based on the average unpaid balances and were paid by the following:

<u>Fees</u>		<u>Volume</u>
\$100,860	by Licensed Supervised Lenders on	\$ 560,332,291
238,998	by Non-Lender Creditors and Assignees (retail dealers, professionals, and service organizations) on	<u>1,327,766,667</u>
\$339,858		\$1,888,098,958

Part VII. Extent to Which Rules of the Administrator are in Harmony with those of Other Code States.

We continue to consult all other states with Uniform Consumer Credit Codes during the course of issuing any regulations or changes. Although all code states have made unique modifications, the code remains relatively uniform in the basic intent of the legislation.

The American Conference of Uniform Consumer Credit Code States holds an annual meeting of the administrators of the eleven states involved. At these meetings the administrators review and compare what is believed to be unusual or isolated situations, matters, or problems that have arisen in their state and a consensus of the solutions offered by the various state administrators is adopted as a guide for handling similar matters that may arise in the future. For the most part, if the problem does not involve rate, the solution in each state can usually be harmonious and uniform. It is usually found that the problems and situations that develop in the administration of the Uniform Consumer Credit Code are the result of new federal legislation or rules and regulations that affect the operation of our state laws concerning consumer credit. Also, new credit and other related products have caused the need for considerable changes in both federal and state laws to maintain current and pertinent regulation of the industry. These meetings prove to be most important, meaningful and educational for the administrator.



Kansas Department of Credit Unions

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

The credit union Administrator, in consultation with the Kansas Credit Union Council, administers KDCU's examination and supervision of state-chartered credit unions in Kansas. The Department has a staff of seven financial examiners, one review examiner, a chief financial examiner, one secretary III, one office specialist and the unclassified position of credit union Administrator.

The Mission of the Department is to provide a regulatory environment in which Kansas chartered credit unions may thrive and prosper without subjecting their members and the citizens of Kansas to undue risks.

K.S.A. 17-2206 requires that each credit union shall be examined at least once every eighteen-months. Currently the Department is on a thirteen month examination cycle.

There are 120 natural person credit unions chartered by the State of Kansas. 23 of the 120 credit unions provide services at their primary location and 42 secondary locations. Three Kansas chartered and one federal credit union have cooperated in forming a credit union services organization to operate a shared service center in Topeka.

There are also two corporate credit unions chartered by the State of Kansas, Kansas Corporate Credit Union and U.S. Central Credit Union. Corporate credit unions form a financial network that provides liquidity and investments for natural person credit unions. The network is made up of 38 state or regional corporate credit unions who offer these services to natural person credit unions located in their state or region. Kansas Corporate Credit Union offers these services to natural person credit unions in Kansas. U.S. Central Credit Union, in turn, offers liquidity and investment services to the 38 corporate credit unions and is the world's largest credit union and the largest financial institution with headquarters in Kansas. U.S. Central Credit Union's assets at December 31, 1996 were \$17,975,000,000 with regulatory capital of \$900,000,000.

*Senate FDSI
Attachment 3
January 16, 1997*

KDCU is funded only by fees collected from credit unions. The authority and method for the establishment of fees is found in K.S.A. 17-2206. Gross fee revenue for FY 1997 was \$897,042 with 20% or \$179,408 transferred to the general fund, leaving \$717,634 to be transferred to the credit union fee fund.

All Kansas chartered credit unions are insured through the National Credit Union Share Insurance Fund (NCUSIF) administered by the National Credit Union Administration (NCUA).

Data comparing Kansas chartered credit unions for June 1995 and June 1996 is in the following table.

**COMPARISON DATA FOR KANSAS CHARTERED NATURAL PERSON
CREDIT UNIONS FOR JUNE 1995 AND JUNE 1996**

ITEM	JUNE 1995	JUNE 1996	PERCENT CHANGE
Total Assets	\$1,562,221,928	\$1,672,723,626	+7.07%
Total Loans	\$1,152,196,464	\$1,135,296,604	-1.47%
Total Shares	\$1,381,891,638	\$1,470,102,708	+6.38%
Total Capital	\$166,630,186	\$186,657,293 11.9%	+12.02%
Delinquent Loans/ Total Loans	\$7,967,857	\$8,737,794	+9.66%
Total Number of Members	463,369	468,696	+1.15%

In closing, the status of the credit union industry today is good. Credit union profits remain stable, capital and reserves have increased, problem credit unions are declining, asset growth is normal to above average, and the volunteer boards of director and committees continue to do a commendable job.

BILL NO. _____

AN ACT relating to credit unions; determining a quorum for meetings; concerning loans to directors; amending K.S.A. 17-2207 and 17-2216a and repealing the existing sections.

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

Section 1. K.S.A. 17-2207 is hereby amended to read as follows: 17-2207. The credit union fiscal year shall end at the close of business on December 31. Special meetings of the members may be held by order of the board of directors or the supervisory committee and shall be held on request of 10% of the members. At all meetings each member shall have but one vote, irrespective of the number of shares held. The number of members constituting a quorum for any meeting shall be as specified in the bylaws. No member may vote by proxy, but a member may vote by absentee or mail ballot if the bylaws of the credit union so allow. A society, association, copartnership or corporation having membership in a credit union may be represented by one person, duly authorized by the society, association, copartnership, or corporation to represent it. At any meeting the members may decide on any matter of interest to the credit union, may overrule the directors, and, by a 3/4 vote of those present, may amend the bylaws, providing the notice of the meeting shall have stated the question to be considered.

Sec. 2. K.S.A. 17-2216a is hereby amended to read as follows: 17-2216a. Subject to rules and regulations of the administrator, a credit union may make loans to its directors, credit committee members and supervisory committee members or other members for which the director or committee member acts as guarantor or endorser who are not employees only if: (a) Such a loan complies with all lawful requirements under the credit union law with respect to loans to other borrowers and is not on terms

Senate Filed
Attachment 4
January 16

more favorable than those extended to other borrowers; (b) in the case where, upon the making of the loan, the aggregate of loans outstanding to the borrower exceeds by ~~\$10,000~~ \$20,000 the total amount of shares, share certificates and other shareholdings in any credit union, not otherwise encumbered or pledged, which are pledged as security for the loans of the borrower, the loan is approved by the credit committee or duly authorized loan officer and the board of directors; and (c) the borrower takes no part in the consideration of the application and does not attend any committee or board meeting while the application is under consideration. All such loans shall be reported to the administrator at least semiannually.

Sec. 3. K.S.A. 17-2207 and 17-2216a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

BILL NO. _____

By

AN ACT relating to credit unions; concerning foreign credit unions; amending K.S.A. 17-2223a and repealing the existing section.

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

Section 1. K.S.A. 17-2223a is hereby amended to read as follows: 17-2223a. (a) No credit union, except credit unions organized under the laws of the state of Kansas or the "federal credit union act," 12 U.S.C. 1751 et seq., and amendments thereto, shall do business in this state until it has received the approval of the credit union administrator.

(b) The administrator may require any such credit union to submit at least every 18 months an examination report made by or under the authority of the national credit union administration or its successor or successors, by any such other appropriate federal or state agency or by an independent auditor or certified public accountant. Such report shall meet the standards which the administrator has established.

(c) If after a hearing or an opportunity for a hearing has been given such credit union in accordance with the provisions of the Kansas administrative procedure act, the administrator determines that such credit union has violated any provision of this act, the administrator may revoke such credit union's authority to do business in this state.

Sec. 2. K.S.A. 17-2223a is hereby repealed.

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

*Senate F.D.S.
Attachment 5
January 16, 1997*