

Approved: February 4, 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 27, 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: John Smith, Administrator of Credit Union Department
Susan Schmelzer, Credit Union Association
Kay Falley, Clerk of the District Court, Shawnee County
Amy Waddle, Judicial Administrator's Office
Kathy Taylor, Kansas Bankers Association

Others attending: See attached list

Hearing on SB 45 -- Credit unions, determining a quorum for meetings, loans to directors

John Smith, Administrator of the Credit Union Department appeared as a proponent of the bill which would (Attachment 1):

1. Allow credit unions, in their bylaws, to determine the number of members constituting a quorum for any meeting.
2. Increase from \$10,000 to \$20,000 the amount that a credit union may lend to a director or a credit committee and supervisory committee member without review and approval by the credit union's board of directors.

Mr. Smith informed the Committee that board members are not paid for their service nor are most paid for any expenses. The board does make most decisions but if votes are taken, a vote by a simple majority of the members attending the meeting is considered final. Credit unions follow the one member-one vote rule with mail-in provisions allowed for election of the board of directors. It has been very costly to send out ballots to all members of credit unions and the return is very small. The minutes of the annual meeting are reviewed by their regulatory agency--the Credit Union Department.

Susan Schmelzer read testimony s prepared by John Radebaugh, Vice-President of the Kansas Credit Union Association explaining the bill (Attachment 2). The purpose of raising the credit union's lending limit is due to the average cost of automobiles being more than \$18,000. Currently the board of directors is required to approve such applications from other board members or supervisory personnel which means delaying the transaction and inconvenience for the applicant.

The hearing was closed.

Senator Clark moved to pass the bill out favorably. The motion was seconded by Senator Feliciano. Motion carried.

Hearing on SB 46: Foreign credit unions

John Smith, Administrator of the Credit Union Department, explained that "foreign credit union" means tthe credit union is chartered outside of Kansas but is permitted to do business in Kansas (Attachment 3). The bill would allow the Administrator to require such a credit union to submit an examination report at least every 18 months. If they do not comply the Administrator could, after a hearing, revoke their authority to do business in the state.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 27, 1997.

Susan Schmelzer read testimony prepared by John Radebaugh, Vice-President of the Kansas Credit Union Association (Attachment 4) This bill would ensure that foreign credit unions operating in Kansas are in good standing with the Credit Union Department by giving the department more oversight powers.

The hearing was closed.

Senator Feliciano moved to pass the bill out favorably. The motion was seconded by Senator Praeger. Motion carried.

Hearing on SB 88: Unclaimed contents of safety deposit boxes upon death of lessee

Kay Falley, Clerk of the District Court, Shawnee County, read testimony prepared by Sherlyn Sampson, Clerk of District Court of Douglas County (Attachment 5). She requested that the last sentence of the second paragraph of K.S.A. 9-1504 which requires the unclaimed contents of safety deposit boxes be turned over to the District Court after notice procedures are followed be stricken. There has been no property turned over to them under this statute. Legislation in 1994 has been interpreted to mean the banks hand over the contents of the abandoned box to the State Treasurer after a prescribed period.

Amy Waddle read testimony prepared by Paul Shelby, Assistant Judicial Administrator of the Office of Judicial Administration (Attachment 6). He referred to this as a "clean up bill" which would clarify the bank's position in handing over contents of abandoned safety deposit boxes.

Kathy Taylor, Kansas Bankers Association, pointed out the need for clarification. If the current language is stricken and if no interested party comes forward to open the box, the contents of the safe deposit box will remain undiscovered for five years before being turned over to the state according the Kansas Unclaimed Property Act (Attachment 7). Ms. Taylor suggested an amendment which would allow the banks to open such safety deposit boxes after 60 days upon the death of the lessee and deliver testamentary items to the District Court.

The hearing was closed.

Senator Feliciano moved to amend the bill conceptually according to the suggestion of the Kansas Bankers Association. The motion was seconded by Senator Praeger. Motion carried.

Senator Feliciano moved to report the bill favorably as amended. The motion was seconded by Senator Praeger. Motion carried.

Senator Becker moved for the approval of the minutes of January 21, 1997. Motion was seconded by Senator Brownlee. Motion carried.

The meeting was adjourned at 9:55 a.m. The next meeting is scheduled for January 28, 1997.



Kansas Department of Credit Unions

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

e-mail kdcu1@sprynet.com

Senate Bill No. 45

January 27, 1997

Mr. Chairman and Members of the Senate Committee:

I am John P. Smith, Administrator of the Kansas Department of Credit Unions and I urge you to recommend S.B. 45 for passage by the Kansas Senate.

Over the past several years our department has received suggestions for improving the credit union statutes. The two changes in Senate Bill 45 do so. It is the position of the Kansas Department of Credit Union's Administrator that S.B. 45 is good public policy designed to serve and safeguard the interests of Kansas credit unions and their member owners. Both changes in credit union law made by this bill were suggested by Kansas chartered credit unions.

With regard to specific language of the bill, a brief comment about each of the changes and their effects are included for your information.

Section 1, (page 1 line 19 through 21) inserts a sentence requiring that the number of members constituting a quorum for any meeting shall be as specified in the bylaws. Since the Kansas Credit Union Act, K.S.A. 17-2201 *et seq.*, is currently silent regarding a quorum requirement for credit unions, potentially K.S.A. 17-6001(c) coupled with K.S.A. 17-6506 (within the corporation code) could require credit unions to establish no less than one-third of its members as the quorum necessary to conduct business. The amendatory language would clarify the authority of a credit union to establish within its bylaws "the number of members constituting a quorum for any meeting." and thus allow a credit union to establish a percentage of more or less than one third of its members as its quorum. Since K.S.A. 17-2201(c) requires the initial organizers of a credit union to obtain a certificate of approval of bylaws from the administrator and 17-2202(b) requires approval of all amendments to a credit union's bylaws by the administrator before becoming operative, the administrator will retain approval of quorum requirements through approval of the credit union's bylaws. Submitted with our testimony is a letter from the Attorney General indicating that the proposed revision contained in Senate Bill No. 45 would eliminate the potential applicability of the Kansas corporation code's one-third quorum requirement and reflect the past practice of Kansas credit unions. Generally the quorum requirement for Kansas credit unions' annual membership meetings is a number less than one-third.

*Senate F&D
Attachment 1
January 27, 1997*

Senate Bill No. 45

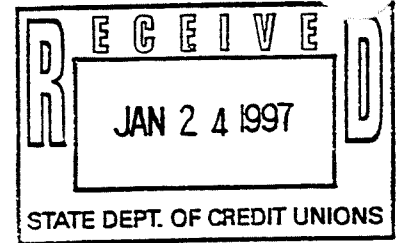
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Section 2 (page 1, line 39) increases the aggregate of loans that a credit union may loan to its directors, credit committee members and supervisory committee members or other members for which the director or committee member acts as guarantor or endorser who are not employees from \$10,000 to \$20,000 before approval by the board of directors is required. Since the last change of this statute in 1992, inflation has occurred with many consumer purchases exceeding the \$10,000 threshold, thus requiring an increase in this amount.

This is also an issue of parity with the Federal Credit Union Act which was amended in September, 1996 to increase the amount from \$10,000 to \$20,000 for federal credit unions.

The Committee should also be aware that all such loans are reported to the administrator semiannually (K.S.A. 17-2216a).

I urge you to recommend S.B. 45 for passage by the Kansas Senate.



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

January 24, 1997

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

John P. Smith, Administrator
Kansas Department of Credit Unions
400 Kansas Avenue, Suite B
Topeka, Kansas 66603

Re: 1997 S.B. 45

Dear Mr. Smith:

You indicate that 1997 S.B. 45, §1 (which would amend K.S.A. 17-2207) is designed to address the issue of state-chartered credit unions potentially being subject to the quorum requirement established within the Kansas corporation code. Since the Kansas Credit Unions Act, K.S.A. 17-2201 *et seq.*, is currently silent regarding a quorum requirement for credit unions, potentially K.S.A. 17-6001(c) coupled with K.S.A. 17-6506 (within the corporation code) could require credit unions to establish no less than one-third of its members as the quorum necessary to conduct business. The amendatory language within 1997 S.B. 45, §1 would clarify the authority of a credit union to establish in its bylaws "the number of members constituting a quorum for any meeting." and thus allow a credit union to establish a percentage of more or less than one third of its members as its quorum.

You indicate that a quorum requirement of one-third of the members is not consistent with generally accepted bylaw provisions for Kansas state credit unions, typically a minimum of twelve members. It thus appears that the revision contained in 1997 S.B. 45, §1 would eliminate the potential applicability of the Kansas corporation code's one-third quorum requirement and reflect past practice of Kansas state credit unions.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL

Camille Nohe
Assistant Attorney General

CN:cn



KANSAS CREDIT UNION ASSOCIATION

Testimony on SB 45

An ACT relating to credit unions;
determining a quorum for meetings;
concerning loans to directors

Presented to the
Senate Committee on Financial Institutions and Insurance
January 27, 1997

Mr. Chairman and Members of the Committee:

I am John Radebaugh, Vice President for the Kansas Credit Union Association. Our association represents 154 credit unions here in Kansas including 120 state-chartered credit unions and 34 federally-chartered credit unions. KCUA member credit unions serve the personal financial needs of over 600,000 credit union members.

I am here today in support of Senate Bill 45.

Senate Bill 45 address two issues. First, the bill would amend K.S.A. 17-2207 which deals with a credit union's fiscal year; meetings, proxies; and absentee or mail ballots. Specifically, the bill addresses the number of credit union members needed at any meeting to constitute a quorum.

This amendment would clarify the credit union board of directors' authority to establish the quorum requirements and the administrator's authority to approve the quorum requirements through the initial bylaws or a bylaw amendment. We support the credit union board of directors' ability to set the quorum requirements in the bylaws and the administrator's ability to approve these requirements.

The second part of Senate Bill 45 would amend K.S.A. 17-2216a dealing with loans to directors and credit or supervisory committee members and the conditions under which such loans can be made.

Approval of the full board is required anytime the aggregate loans outstanding to an individual credit union official exceeds their savings by \$10,000. Given today's economic

8410 W. Kellogg
Wichita, Kansas
67209-1896
1-800-362-2076
Tel 316-722-4251
Fax 316-729-0857

Kansas City Office
8900 State Line Rd.
Suite 200
Leawood, Kansas
66206-1936
Tel 913-385-6230
Fax 913-385-6299

Topeka Office
816 SW Tyler
Topeka, Kansas
66612-1635
Tel 913-232-2446
Fax 913-232-2730

Dodge City Office
Post Office Box 757
Dodge City, Kansas
67801-0757
Tel 316-225-2125
Fax 316-225-3577

Senate F.D.D
Attachment 2
1/27/97

Senate Bill 45
January 27, 1997

environment, we support raising the ceiling to \$20,000 before the need for review and approval by the credit union's board of directors. In the case of a new car loan, the average new car price is over \$18,000. Under the current statute, the credit union is required to incur extra expense and effort and delayed service to the official for a routine loan transaction.

In addition, this change would provide state-chartered credit unions parity with their federally- chartered counterparts.

Mr. Chairman, thank you for the opportunity to testify on this bill.



Kansas Department of Credit Unions

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

e-mail kdcu1@sprynet.com

Senate Bill No. 46

January 27, 1997

Mr. Chairman and Members of the Senate Committee:

I am John P. Smith, Administrator of the Kansas Department of Credit Unions and I urge you to recommend S.B. 46 for passage by the Kansas Senate.

Credit unions chartered by other states may operate within Kansas if they have received approval of the Kansas credit union administrator. It is the position of the Kansas Department of Credit Unions that Kansas citizens who join credit unions chartered by states other than Kansas that are operating within Kansas, should be afforded similar measures of safety and soundness as are those who join Kansas-chartered credit unions. Senate Bill 46 would amend the credit union act to allow the administrator to require these credit unions to submit to the administrator an examination report at least every 18 months. The amendment also provides for a hearing or an opportunity for a hearing in the event of a violation and authority for the administrator to revoke the credit union's authority to do business in Kansas.

The practice of the current administrator is to require an examination report for all credit unions chartered by other states prior to permitting them to do business in Kansas and at each examination cycle, which usually occurs within 12 to 18 months for most states. The amendment places this authority to require examination reports in the statute.

With regard to specific language of the bill, a brief comment about the changes and their effects are included for your information.

Section 1, (lines 18 through 23) adds language providing authority for the administrator to require credit unions chartered by other states 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 or by any such other appropriate federal or state agency or by an independent auditor or certified public account. The examination requirement is similar to K.S.A. 17-2206(b) which specifies the examination requirements for Kansas chartered credit unions.

*Senate FD&D
Attachment 3
Jan 27, 1997*

Senate Bill No. 46

January 27, 1997

Page 2

Section 1, (lines 24 through 28) provides for a hearing or an opportunity for a hearing if the administrator determines that the credit union has violated any provision of the Kansas credit union act and authority for the administrator to revoke the credit union's authority to do business in Kansas.

I urge you to recommend S.B. 46 for passage by the Kansas Senate.



KANSAS CREDIT UNION ASSOCIATION

Testimony on SB 46

AN ACT relating to credit unions;
concerning foreign credit unions

Presented to the
Senate Committee on Financial Institutions and Insurance
January 27, 1997

Mr. Chairman and Members of the Committee:

I am John Radebaugh, Vice President for the Kansas Credit Union Association. I am here today in support of Senate Bill 46 which would amend K.S.A. 17-2223a which only requires foreign credit unions to solicit and receive approval of the state credit union administrator before doing business in Kansas.

The KCUA and Kansas credit unions support this amendment. While the current statute requires that a foreign credit union receive the administrator's approval to do business in Kansas, the proposed amendment would further specify that the administrator has authority to request and review examination reports filed by the foreign credit union and that these reports must meet the standards established by the administrator. It also authorizes the administrator to revoke such credit union's authority to do business in Kansas if the administrator determines that such credit union has violated any provisions of the act.

We support the administrator's ability to ensure that foreign credit unions operating in Kansas are strong and viable financial institutions and do not pose any potential detriment to the overall image or health of the Kansas credit union movement or the State of Kansas.

Mr. Chairman, thank you for the opportunity to testify on this bill.

8410 W. Kellogg
Wichita, Kansas
67209-1896
1-800-362-2076
Tel 316-722-4251
Fax 316-729-0857

Kansas City Office
8900 State Line Rd.
Suite 200
Leawood, Kansas
66206-1936
Tel 913-385-6230
Fax 913-385-6299

Topeka Office
816 SW Tyler
Topeka, Kansas
66612-1635
Tel 913-232-2446
Fax 913-232-2730

Dodge City Office
Post Office Box 757
Dodge City, Kansas
67801-0757
Tel 316-225-2125
Fax 316-225-3577

Senate Filed

Jan 27, 1997

Attachment 4

SENATE BILL NO. 88
Financial Institutions & Insurance Committee
January 27, 1997

Testimony of Sherlyn Sampson
Clerk of District Court, Douglas County
for the Kansas Association of District Court Clerks & Administrators

Mr. Chairman and members of the committee:

This bill is being introduced by the Kansas Association of District Court Clerks & Administrators as a clean up bill. Currently, there are two statutes dealing with unclaimed contents of safety deposit boxes.

KSA 9-1504 was last amended in 1977. It states if no person claims the contents of a safety deposit box within 60 days after the death, the contents may be removed and delivered to the district court.

KSA 59-3949 and 59-3950, established in 1994, deal with unclaimed property in a safe deposit box that has been abandoned and require that property to be turned over to the State Treasurer after the notice procedures for unclaimed property are followed.

The Clerks of District Courts have reported to the KADCCA Legislative Committee that they have not had any property from safe deposit boxes turned over to them under KSA 9-1504. The Unclaimed Property Division of the State Treasurer's office considers KSA 59-3949 & 59-3950 to be current law and that is what they follow. They do not recall ever receiving contents of safe deposit boxes from the courts, only from banks. We are requesting that you strike the last sentence of the 2nd paragraph of KSA 9-1504.

Thank you allowing me the opportunity to speak to the committee on behalf of the District Court Clerks & Administrators in Kansas. I urge your support of this bill. If you have any questions, I would be happy to answer them.

Senate F.D.S.D
Jan 27, 1997
Attachment 5

SENATE BILL NO. 88

Senate Financial Institutions and Insurance Committee
January 27, 1997

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I appreciate the opportunity to appear today in support of Senate Bill No. 88 which relates to unclaimed contents of safety deposit boxes.

This bill was introduced on behalf of the Kansas Association of District Court Clerks and Administrators as a clean up bill. Currently there are three statutes dealing with unclaimed contents of safety deposit boxes.

K.S.A. 9-1504 was last amended in 1977 and it states if no person claims the contents of a safety deposit box within 60 days after the death of the lessee, the contents may be removed and delivered to the district court. Due to the lack of activity in the district courts of this procedure, we are requesting you strike the language in Senate Bill No. 88, lines 28 through 32, which would remove the district court from this procedure.

K.S.A. ~~50~~-3949 and ~~50~~-3950, established in 1994, deal with unclaimed property in a safe deposit box that has been abandoned and requires that the property be turned over to the State Treasurer after the notice procedures for unclaimed property are followed. These are the statutes that are currently being followed.

I urge your favorable support of this bill.

*Senate FID
Attachment 6
January 27, 1997*



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

TO: Senate Financial Institutions and Insurance Committee

FROM: Kathy Taylor

DATE: January 27, 1997

RE: SB 88

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee regarding **SB 88**. This bill amends the section of the Kansas Banking Code which determines what happens to the contents of a safe deposit box when all the lessees named in the lease agreement have died and no one has come forward as an interested party to open the box.

The amendments strike the language that allows the lesser to open the safe deposit box under these circumstances 60 days after the death of the lessee(s). Once the box is opened, the lesser then delivers the contents to the District Court.

Banks, as the lessors of safe deposit boxes, will comply with whatever the law states they must do, but we felt it necessary to point out to the Committee Members, that if this language is stricken, if no interested party comes forward to open the box, the contents of the safe deposit box will remain undiscovered for 5 years, which is the period of time under the Kansas Unclaimed Property Act before which the contents would be turned over to the State of Kansas.

There might be times when important testamentary documents such as a will or a trust, or other things like life insurance policies, would lie in the safe deposit box for 5 years after the lessees death before being discovered. We fear this may not be in the best interest of the bank customer, the lessee of that safe deposit box.

We simply ask that the Committee consider all the ramifications before making the changes suggested in **SB 88**. Thank you.

*Senate F.D.D.
Attachment 7
1/27/97*