

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 March 6, 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: Whitney Damron, Kansas Bar Association
Jim Maag, Kansas Bankers Association
Newton Male, State Bank Commissioner
Chuck Stones, Kansas Bankers Association
Sue Anderson, Executive Director of Community Bankers
Bill Grant, Office of State Bank Commissioner
Judy Stork, Office of State Bank Commissioner
Sue Ann Schultz, General Counsel for Bank IV
Tom Wilder, Kansas Insurance Department
Pat Morris, Kansas Association of Insurance Agents

Others attending: See attached list

Hearing on HB 2057 - Release of mortgage or deed of trust

Whitney Damron, representing the Kansas Bar Association, explained the bill which would provide that any mortgage or deed of trust against real property recorded on or after January 1, 1955, and before January 1, 1965, shall be void unless prior to July 1, 1998, the mortgage holder files an affidavit with the Register of Deeds stating the nature of the claim, the date of the last payment on the claim, and a description of the property (Attachment 1). The bill would provide that any all mortgages recorded after January 1, 1965, if 32 years have elapsed and the owner of the mortgage has not filed an affidavit, then the mortgage is released by law. Mr. Damron said this was an attempt to codify policy which the Legislature has made over 50-60 years. This would definitely benefit families in the settling of estates. It is an expensive and costly procedure to file for quiet title. Included in the testimony was a balloon amendment prepared by the Title Standards Committee of the Kansas Bar Association. This amendment would clarify that an action to foreclose would also serve as a re-filing of the mortgage.

Jim Maag, Kansas Bankers Association, voiced their support of the legislation which would help all banking and lending institutions.

Senator Feleciano moved to approve the suggested amendment. The motion was seconded by Senator Barone. Motion carried.

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

Hearing on HB 2070 - Banks and trust companies; stock ownership

Chuck Stones, Kansas Bankers Association, explained that this bill would eliminate the requirement for a member of a bank's board of directors to own common stock in the bank or trust company or in the parent corporation with a par value of at least \$500. This 1947 law was to assure that the director took his responsibilities and actions seriously (Attachment 2). The \$500 requirement is no long considered a significant investment for an individual as other banking and court regulations have made bank directors liable for their actions. Sub-S Corporations are now formed by banks and this requirement may impact the ability of some banks to take advantage of this type of structure.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on March 6, 1997.

Newton Male, Kansas State Bank Commissioner, supported the request for this legislation as the law is outdated and sometimes acts as a deterrent to finding people to serve on the boards (Attachment 3). As banks grow and the size of the bank's capital grows, the book value per share also grows. Although the par value of the stock might be \$100 per share, and a director is required to buy five shares to equal \$500 par value, the book value per share is in fact \$6,000 per share and requires an investment of \$30,000 per director.

Sue Anderson, Community Bankers Association, presented an amendment which would cap bank deposits at any one bank at 15% of the total deposits of all Kansas banks whether they are state or foreign chartered banks (Attachment 4). Total deposits would be based on deposits of savings deposits, shares and other accounts in savings and loan associations, federal savings banks and building and loan associations in this state as determined by the state bank commissioner according to the latest reports.

Revisor Fred Carman announced the title of the bill would have to be changed to make the amendment germane.

Bill Grant, General Counsel for the Office of State Bank Commissioner, discussed the ambiguous language in the bill and requested additional study of the proposed amendment. Their office would be required to administer the law and a clearer intent would be needed. The Riegle Neal Act caps banks at 30% of total deposits and states have the right to have lower caps. Most states do have some sort of cap regarding percent of deposits which can be in one bank.

Bank Commissioner Male informed the Committee that they were not opposed to the bill but needed clarification especially regarding out of state banks. Branches which are not home officed here in Kansas were in question. Total deposits in Kansas are now more than \$28 billion. According to Bank IV, their deposits are between \$4.5 and \$5 billion.

The question of whether credit unions should be included in the deposit count was discussed.

Sue Ann Schultz, general counsel for Nations Bank (Bank IV), requested additional time to study the proposed amendment. They were definitely supportive of the clean-up language concept.

The hearing was continued until Wednesday, March 12.

Hearing on HB 2071 - Discipline of agents

Tom Wilder, Kansas Insurance Department, reviewed the bill which sets out penalties which may be assessed by the Insurance Commissioner if agents or brokers are negligent in turning in their continuing education requirement compliance information (Attachment 5). The due date for this information was changed from May 1 to the agent and/or broker's birthday. More than \$65,000 was collected in penalties last year. An amendment to remove the italicized section on lines 32 and 33 and place it in Section 2 was presented.

Patrick Morris, Kansas Insurance Agents Association, voiced their support of the bill and said it would be up to the Kansas Insurance Department to fairly administer the penalty component of the bill.

Senator Feleciano moved to accept the proposed amendment, allow the revisor to make the necessary technical changes, and report the bill favorably as amended. The motion was seconded by Senator Becker. Motion carried.

Senator Becker moved to approve the minutes of February 14, 17, 18, 19, 20, 21, 24, and 25. The motion was seconded by Senator Praeger. Motion carried.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for March 11, 1997.

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COMMERCE BANK BUILDING
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TOPEKA, KANSAS 66612-1213
(913) 354-1354 ♦ 232-3344 (FAX)

TO: Chairman Don Steffes
and the Senate Committee on Financial Institutions and Insurance

FROM: Whitney Damron
on behalf of the Kansas Bar Association

RE: HB 2057 - Release of Mortgages

DATE: March 6, 1997

Good morning Chairman Steffes and Members of the Senate Committee on Financial Institutions and Insurance. My name is Whitney Damron and I am appearing before you this morning on behalf of the Kansas Bar Association in support of HB 2057.

When a mortgage has been paid in full, or for some other reason the mortgage is no longer in effect (such as refinancing the mortgage with another mortgage company), the mortgage should be "released." This is done by the company or person holding the mortgage filing a mortgage release document with the Register of Deeds. When title examiners look at the county records, they see the release and they know that, for that mortgage, the title is clear. If they do not see the release, they note the fact that the title is still subject to a mortgage.

Most mortgages are 30 years or less. For a variety of reasons, sometimes mortgages whose period has expired have not been released. Most often, this may be oversight, or the mortgage institution has gone out of business. Or the mortgage filed was by an individual who has since died and he has no probate estate which can release the mortgage. It is important that these mortgages get released because if they are not, then the owner of the

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property, in order to sell property clouded by a mortgage on the title, must go to the expense of filing a quiet title action to vest title in the owner.

To avoid the quiet title action, the law provides currently a law very similar to HB 2057, KSA 58-2333h.

Any mortgage or deed of trust against real property located in this state recorded on or after January 1, 1951, and before January 1, 1955, or referred to or described in any instrument of record within such period shall be void, unless, prior to July 1, 1988, the owner and holder thereof files, in the office of the register of deeds of the county in which the property is located, an affidavit stating: (a) The name and address of the owner and holder thereof; (b) the nature of the claim; (c) the amount due on the claim; (d) the date of the last payment on the claim; and (e) a description of the property. This section shall not apply to or affect mortgages, deeds of trust or liens against real property of railroad corporations recorded after January 1, 1890. Infancy, incompetency or nonresidency shall not affect the operation of this act. History: L. 1987, ch. 259, 1,; July 1.

The 1987 legislature enacted this law. However, it only applies to mortgages recorded on or after January 1, 1951 through January 1, 1955. We need to bring this up to date.

There are two ways to bring this law up to date. One is simply change the January dates above and move forward a fixed time period. The second way, which we attempt in HB 2057, is to let dates "float" automatically.

Subsection (a) is a section similar to the 1987 law. It brings forward all recordings between January 1, 1955 and January 1, 1965. Subsection (b) is the float. For all mortgage recordings after January 1, 1965, if 32 years have elapsed, and the owner of the mortgage has not filed an affidavit, then the mortgage is released by law.

Example: Mortgage bank "A" files a standard 30-year mortgage on a House on February 1, 1965. If 32 years pass without a mortgage release being filed of record, and "A" does not file a new affidavit by July 1, 1987, (1964 + 32 years + to the next July 1), then the statute releases the mortgage and on a title exam, the examiner would so indicate.

Included with my testimony is a proposed balloon amendment suggested by the Title Standards Committee of the Kansas Bar Association. They did not have an opportunity to review the bill during House deliberations and upon further review, suggested a technical amendment which would clarify that an action to foreclose would also serve as a re-filing of the mortgage.

On behalf of the Kansas Bar Association, I thank you for your consideration of HB 2057 and would be pleased to stand for questions.

HOUSE BILL No. 2057

By Committee on Judiciary

1-22

9 AN ACT concerning real property; relating to the release of a mortgage
10 or deed of trust.

11

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

13 Section 1. (a) Any mortgage or deed of trust against real property
14 located in this state recorded on or after January 1, 1955, and before
15 January 1, 1965, or referred to or described in any instrument of record
16 within such period shall be void, unless, prior to July 1, 1998, the owner
17 and holder thereof files, in the office of the register of deeds of the county
18 in which the property is located, an affidavit stating:

19 (1) The name and address of the owner and holder thereof;

20 (2) the nature of the claim;

21 (3) the amount due on the claim;

22 (4) the date of the last payment on the claim; and

23 (5) a description of the property.

24 (b) Any mortgage or deed of trust against real property located in this
25 state recorded on or after January 1, 1965, or referred to or described in
26 any instrument of record after such date, shall be void by operation of
27 law if:

28 (1) More than 32 years shall have elapsed between the date of the
29 initial recording of the mortgage; and

30 (2) prior to July 1 of the year next preceding the date 32 years after
31 the date of initial recording, the owner and holder of the mortgage does
32 not file in the office of the register of deeds of the county in which the
33 property is located, an affidavit stating:

34 (A) The name and address of the owner and holder thereof;

35 (B) the nature of the claim;

36 (C) the amount due on the claim;

37 (D) the date of the last payment on the claim; and

38 (E) a description of the property.

39 (c) This section shall not apply to or affect mortgages, deeds of trust
40 or liens against real property of railroad corporations recorded after Jan-
41 uary 1, 1890.

42 (d) Infancy, incompetency or nonresidency shall not affect the op-
43 eration of this act.

*unless an action is commenced to foreclose
the mortgage, or unless*

7-1

KANSAS STATUTES
CHAPTER 58. PERSONAL AND REAL PROPERTY
ARTICLE 23. MORTGAGES OF REAL PROPERTY

58-2332. Mortgages or deeds of trust recorded prior to 1914 or referred to or described declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record before January 1, 1914, or referred to or described in any instrument of record prior to said date, shall, from and after July 1, 1948, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act. [History: L. 1947, ch. 336, § 1; June 30.]

58-2333. Mortgages or deeds of trust recorded or referred to or described of record prior to 1919 declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record before January 1, 1919, or referred to or described in any instrument of record prior to said date, shall, from and after July 1, 1952, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act.

[History: L. 1951, ch. 373, § 1; June 30.]

58-2333a. Mortgages or deeds of trust recorded or referred to or described of record between January 1, 1919,

and January 1, 1923, declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record on or after January 1, 1919, and before January 1, 1923, or referred to or described in any instrument of record within the prescribed period, shall, from and after July 1, 1956, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act.

[History: L. 1955, ch. 300, § 1; June 30.]

58-2333b. Mortgages or deeds of trust recorded or referred to or described of record between January 1, 1919, and January 1, 1927, declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record on or after January 1, 1919, and before January 1, 1927, or referred to or described in any instrument of record within the prescribed period, shall, from and after July 1, 1962, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property or railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act.

[History: L. 1961, ch. 296, § 1; June 30.]

58-2333c. Mortgages or deeds of trust recorded or referred to or described of record between January 1, 1927, and January 1, 1935, declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record on or after January 1, 1927,

and before January 1, 1935, or referred to or described in any instrument of record within the prescribed period, shall, from and after July 1, 1968, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act.

[History: L. 1967, ch. 304, § 1; July 1.

58-2333d. Mortgages or deeds of trust recorded or referred to or described of record between January 1, 1935, and January 1, 1939, declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record on or after January 1, 1935, and before January 1, 1939, or referred to or described in any instrument of record within the prescribed period, shall, from and after July 1, 1972, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act.

[History: L. 1971, ch. 191, § 1; July 1.

58-2333e. Mortgages or deeds of trust recorded or referred to or described of record between January 1, 1939, and January 1, 1943, declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record on or after January 1, 1939, and before January 1, 1943, or referred to or described in any instrument of record within the prescribed period shall, from and after July 1, 1976, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in

which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: Provided, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: Provided further, That infancy, incompetency or nonresidence shall not affect the operation of this act.

[History: L. 1975, ch. 346, § 1; July 1.

58-2333f. Mortgages or deeds of trust recorded or referred to or described of record between January 1, 1943, and January 1, 1947, declared void; exceptions.

Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record on or after January 1, 1943, and before January 1, 1947, or referred to or described in any instrument of record within the prescribed period shall, from and after July 1, 1980, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein. This act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured. Infancy, incompetency or nonresidency shall not affect the operation of this act.

[History: L. 1979, ch. 172, § 1; July 1.

58-2333g. Mortgages or deeds of trust recorded between January 1, 1947, and January 1, 1951, declared void; exceptions.

Any mortgage or deed of trust against real property located in this state recorded on or after January 1, 1947, and before January 1, 1951, or referred to or described in any instrument of record within such period shall be void, unless, prior to July 1, 1986, the owner and holder thereof files, in the office of the register of deeds of the county in which the property is located, an affidavit stating: (a) The name and address of the owner and holder thereof; (b) the nature of the claim; (c) the amount due on the claim; (d) the date of the last payment on the claim; and (e) a description of the property. This section shall not apply to or affect mortgages, deeds of trust or liens against real property of railroad corporations recorded after January 1, 1890. Infancy, incompetency or nonresidency shall not affect the operation of this act.

[History: L. 1984, ch. 249, § 1; L. 1985, ch. 185, § 1; July 1.

58-2333h. Mortgages or deeds of trust recorded between January 1, 1951, and January 1, 1955, declared void; exceptions.

Any mortgage or deed of trust against real property located in this state recorded on or after January 1, 1951, and before January 1, 1955, or referred to or described in any instrument of record within such period shall be void, unless, prior to July 1, 1988, the owner and holder thereof files, in the office of the register of deeds

of the county in which the property is located, an affidavit stating: (a) The name and address of the owner and holder thereof; (b) the nature of the claim; (c) the amount due on the claim; (d) the date of the last payment on the claim; and (e) a description of the property. This section shall not apply to or affect mortgages, deeds of trust or liens against real property of railroad corporations recorded after January 1, 1890. Infancy, incompetency or nonresidency shall not affect the operation of this act.

[History: L. 1987, ch. 259, § 1; July 1.]

Kansas Bankers Association

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3-6-97

TO: Senate Financial Institutions and Insurance Committee

FROM: Chuck Stones, Director Of Research

RE: HB 2070

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you as a proponent to HB 2070. HB 2070 would eliminate the requirement for a member of a bank's board of directors to own common stock in the bank or trust company or in the parent corporation with a par value of at least \$500.

This requirement dates back to 1947, is outdated in today's banking environment and, in some cases, a hindrance to sound business decisions. When this provision was adopted \$500 was a significant investment for an individual. It was meant to assure that a director of a bank lived up to his or her responsibilities as a director and kept the best interests of the bank in mind when making decisions. Banking has changed significantly since that time and other laws and courts have made bank directors liable for their actions, making a mere \$500 investment insignificant. In fact, the liability that a bank board member faces has often times made it difficult to find people willing to serve. There are also federal regulations that govern the actions of a banks board of directors.

In addition there has recently been some action taken at the Federal level involving corporate structure that has impacted the makeup of a bank's shareholders. Banks are now allowed to form Sub-S corporations. This requirement may impact the ability of some banks to take advantage of this type of structure.

Finally, there is no such requirement of other corporations in the general corporation section of the Kansas Statutes. Stock ownership is governed by each corporation in their by-laws, as would banks if this change is adopted.

The KBA appreciates you attention in this matter, and urges your favorable action on HB 2070.

Chuck A. Stones

*Senate F.I.A.
Attachment 2*

3-6-97

STATE OF KANSAS
BILL GRAVES
GOVERNOR



W. Newton Male
Bank Commissioner

Judi M. Stork
Deputy Commissioner

Kevin C. Glendening
Assistant Deputy Commissioner

William D. Grant, Jr.
General Counsel

Ruth E. Glover
Administrative Officer

OFFICE OF THE
STATE BANK COMMISSIONER

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

MARCH 7, 1997

Mr. Chairman and Members of the Committee:

I am W. Newton Male, Bank Commissioner, and I am here to testify in favor of House Bill 2070. Our department supports this bill and feels the current law is outdated.

The original intent of this law was to impose a sense of financial responsibility upon an individual as they became a director of a bank. The theory was the director would do a better job if they had some of their own money at risk. The \$500 **par value** requirement was established in 1947 when such level of investment by the director brought with it a financial duty to the institution. This requirement is based on the **par value** of the stock, not the **book value**. The **book value**, however, is generally the price the director pays for the stock. Because of this, the actual investment by a director varies greatly from institution to institution. In one bank the stock could cost \$1,000 versus \$30,000 in another institution. As banks grow and the size of the bank's capital grows, the book value per share also grows. So, although the **par value** of the stock for example is \$100 per share and the director must buy five shares to equal \$500 par value, the **book value** per share is in fact \$6,000 per share and requires an investment of \$30,000 by the director. Numerous people would be unable to afford such an investment. This large sum, coupled with the potential liability associated with serving as a bank director would steer even those who could afford such a purchase to decline their service as a bank director. So, in many instances, this statute deters good people from becoming directors. In other instances, the purchase sum is only \$500, which by today's standards hardly appears to place a large financial responsibility on the director to "do a good job". These requirements are outdated and should be repealed.

*Senate FD-1
Attachment 3
3-6-97*

SENATE BILL NO. _____

By

AN ACT relating to bank holding companies; concerning ownership limitations; amending K.S.A. 1996 Supp. 9-520 and repealing the existing section.

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

Section 1. K.S.A. 1996 Supp. 9-520 is hereby amended to read as follows: 9-520. (a) Excluding shares held under the circumstances set out in paragraph (2) of subsection (a) of K.S.A. 9-519, and amendments thereto, no bank holding company or any subsidiary thereof shall directly or indirectly acquire ownership or control of, or power to vote, any of the voting shares of any bank domiciled in this state if, after such acquisition, all banks domiciled in this state, in which the bank holding company or any subsidiary thereof has ownership or control of, or power to vote, any voting shares, would have, in the aggregate, more than 15% of the total deposits of all banks in this state plus the total deposits, savings deposits, shares and other accounts in savings and loan associations, federal savings banks and building and loan associations in this state as determined by the state bank commissioner on the basis of the most recent reports to supervisory authorities which are available at the time of the acquisition.

(b) This section shall not prohibit a bank holding company or any subsidiary thereof from acquiring ownership or control of, or power to vote, any of the voting shares of any bank domiciled in this state if the state bank commissioner, in the case of a bank organized under the laws of this state, or the comptroller of the currency, in the case of a national banking association, determines that an emergency exists and that the acquisition is appropriate in order to protect the public interest against the failure or probable failure of the bank.

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Attachment 4
3-6-97

(c) The provisions of subsections (a) and (b) shall be expressly applicable to out-of-state bank holding companies, and no such out-of-state bank holding company shall be permitted to acquire ownership or control of a bank domiciled in this state, if, after such acquisition, such out-of-state bank holding company would control more than 15% of the total deposits of all banks in this state plus the total deposits, savings deposits, shares and other accounts in savings and loan associations, federal savings banks and building and loan associations in this state, as specified in subsection (a). In calculating such concentration level for out-of-state bank holding companies, all insured depository institutions that would be affiliates as defined in 12 U.S.C. 1841(k) shall be considered.

Sec. 2. K.S.A. 1996 Supp. 9-520 is hereby repealed.

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



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder

Re: House Bill 2071 (Insurance Agents)

Date: March 6, 1997

I am appearing today in support of H.B. 2071 which makes several minor changes to the laws governing the licensing of insurance agents in Kansas. The first section of the bill amends K.S.A. 40-240f to allow the Insurance Commissioner to waive the mandatory penalties assessed against agents who fail to timely certify compliance with our continuing education requirements. The current law states that a penalty shall be assessed and the Department would like the flexibility to not fine agents in cases where the violation of the law was excusable error. In the last two year licensing period (1995 - 1996) we collected approximately \$65,000 from agents who failed to timely notify the Insurance Department that they had completed their required continuing education hours.

The bill also gives insurance companies 30 days to certify that an agent has an appointment to work for a company rather than the 15 days that is in the current law. Finally, the legislation makes it clear that the certification costs which companies pay to the Insurance Department is a nonrefundable fee.

The House Insurance Committee amended the bill to reinsert a provision in our current law regarding the requirement for agents who let their licenses lapse to take a test in order to be recertified as an insurance agent.

I would ask that the Committee approve House Bill 2071 favorably for passage.

*Senate FID
Attachment 5
3-6-97*