

Approved: March 8, 1999
Date

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 17, 1999 in Room 527-S of the Capitol.

All members were present except: Representative Henry Helgerson - Excused

Committee staff present: Dr. Bill Wolff, Legislative Research
Bruce Kinzie, Office of Revisor
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Chuck Stones, Kansas Bankers Association
David Brant, Securities Commissioner of Kansas

Others attending: See attached list

Chairman Cox opened the hearing on **SB 120 - Concerning banks and trust companies; powers of the bank commissioner; notification regarding special orders issued.**

Proponents:

Chairman Cox recognized **Chuck Stones**, Kansas Bankers Association, who told the committee that **SB 120** came about as a result of the investment subsidiary special order that the bank commissioner made last year. Last year's Senate Bill regarding the subject didn't go anywhere. This year the Bank Commissioner, the Kansas Bankers Association, and the Chair of the Banking Committee in the Senate got together and came up with, what the KBA considers, a good compromise. The result of that is **SB 120**. It basically adds to the list of people notified, when the bank commissioner issues a special order called a "Wild Card" order. The current list includes the leadership of both bodies of both parties. It adds to that list the chairman and ranking minority member of both standing banking committees of both bodies and it adds the governor. He encouraged the committee's support of the bill. (**Attachment 1**)

Sue Anderson, Community Bankers Association - Written testimony only. (**Attachment 2**)

Chairman Cox closed the hearing on **SB 120** and opened the hearing on **SB 122 - Securities; regulation of.**

Proponent:

Chairman Cox recognized **David Brant**, Securities Commissioner of Kansas. He advised the committee that **SB 122** deals with the securities act and enforcement authority over investment advisors. They are proposing to add four provisions to the act. It would allow Kansas to adopt some model language, which is from the Universal Securities Act, that has been adopted in other states, specifically, in Missouri and Oklahoma. Other provisions of the model act have been adopted by 39 states. The anti-fraud provisions are necessary to clarify that his office has anti-fraud authority over both state registered and federally covered investment advisors. Since 1996, investment advisors that manage \$25 million and less are licensed with the state of Kansas and regulated solely by the Securities Commissioner's office. Those that manage over \$25 million are regulated by the Securities Exchange Commission and licensed by the FCC but are subject to Kansas's anti-fraud authority. It's important to get the provisions in **SB 122** on the books given the growth in the financial advisor industry. (**Attachment 3**)

There was a question of Commissioner Brant as to whether it would be necessary to receive the consent of the client in writing. They noted that the bill specifies the need for disclosure to the client in writing. The Commissioner said he believed it did but he would have to get back with a definite answer. He said that he

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS, Room 527-S Statehouse, at 3:30 p.m. on February 17, 1999.

believes it is being done because when his office does reviews they always check for a signature on the disclosure. He said he would follow up on the question.

Chairman Cox said the committee would meet on Monday to discuss SB 122. He then opened the discussion on HB 2295 - Liability of Trustee.

Chairman Cox referred the committee to a copy of a memo he had received from Representative Carmody regarding some concerns he had about HB 2295. He asked Chuck Stones, KBA, if he had seen Representative Carmody's concerns. He had not. It seems to Mr. Stones that, even though it's a huge comprehensive law and it is taking longer to update than people thought it would, Representative Carmody does not object to the two bills that are out there. Representative Carmody just doesn't want to pass something and then have to have it be wiped out next year or the year after. Mr. Stones thinks the liability bill is needed and important enough that the committee might want to consider doing it anyway. When the Uniform Bill comes alone, it will delete current language anyway.

Representative Sharp said she is concerned about a situation she has in her district and asked for a clear definition of what a trustee is. Daryl Craft said the bill addressed any entity serving as trustee, including individuals and corporations. Representative Sharp said if the intent is to include all trustees, it would not address her concern.

Chairman Cox asked for a motion regarding SB 120. Representative Burroughs moved to pass SB 120. Representative Mayans seconded the motion. The motion carried.

Chairman Cox presented the committee minutes for February 10,1999 to the committed for approval. Representative Grant moved to approve the minutes as presented. Representative Vickery seconded the motion. The motion carried.

Meeting adjourned at 4:04 p.m.

The next meeting is scheduled for February 22.

HOUSE FINANCIAL INSTITUTIONS COMMITTEE GUEST LIST

DATE: February 17, 1999

NAME	REPRESENTING
Dino Anderson	CBA
Dag Gish	KBA
DAVID BRANT	SECURITIES COMM.
Chuck Stones	KBA
Kevin Glendening	OSBC
Judi Stork	OSBC

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2-17-99

TO: House Financial Institutions
FROM: Chuck Stones, Director of Research

RE: SB 120

Mr. Chair and Members of the Committee:

Thank you for the opportunity to appear before you regarding SB 120, which deals with the "Wild Card" Authority of the Bank Commissioner. As you are probably aware, we opposed a similar bill, last year because it had the potential to cause delays in the issuance of Special Orders that would maintain competitive equality between nationally and state chartered banks. The dual banking system, as you know, is the existence of two separate, equivalent chartering and regulatory systems at the state and federal level. The dual banking system provides financial institutions a meaningful choice between state and federal chartering, supervision, and regulation. It is a unique system in the world, and has been the major factor in the dynamism of the American banking system.

The existence of two regulatory systems promotes efficiency, as regulators learn from each other and have the incentive to improve their operations to serve their constituencies. The dual banking system also promotes creativity within the banking industry. Innovations that originated at the state level include checking accounts, NOW accounts, ATM's, electronic funds transfers, and bank insurance sales.

We feel the bill as proposed this year fully meets the concerns expressed last year for information regarding the issuance of Special Orders and our concern of potential delays. It also allows for further information to be obtained by the parties receiving notification if deemed necessary or prudent.

SB 120 represents compromise in its best form and appears to be the best of both worlds. We urge your support.

House Financial Institutions
2-17-99
Attachment 1



Date: February 17, 1999
To: House Financial Institution Committee
From: Community Bankers Association of Kansas
Re: Support of Senate Bill 120

Thank you for the opportunity to offer our comments on Senate Bill 120.

1. We believe to the Bank Commissioner's authority to grant state banks the ability to engage in the same types of activities of national banks is a necessary and important power if the dual banking system is to be preserved and if Kansas state-chartered banks are to remain competitive.
2. Likewise, we believe it is an important step of the process for the Kansas Legislature to be informed when this authority is used to bring about parity for state chartered banks. K.S.A. 9-1715 provides the mechanism for which this goal is accomplished; however, the Committee has suggested that improvements are needed in this process.
3. Senate Bill 120 accomplishes this objective by enlarging the scope of who receives notification of any use of the wild card authority by the Bank Commissioner. Formerly a single notification of special orders by the Commissioner was made to the president and the minority leader or the Senate and the speaker and the minority leader of the House of Representatives. Senate Bill 120 provides for the chairpersons of each standing committee having jurisdiction over financial institutions to also receive notification at the time the special order is issued and again prior to the start of the annual session of the Kansas Legislature.
4. The Community Bankers Association of Kansas supports SB 120 as amended and passed by the Senate.

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House Financial Institutions
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Attachment 2

Directed By The Members We Serve



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

TESTIMONY IN SUPPORT OF SENATE BILL No. 122
Amendments to the Kansas Securities Act
Financial Institutions Committee Kansas House

DAVID BRANT
Kansas Securities Commissioner
February 17, 1999

Mr. Chairman and members of the committee, thank you for this opportunity to testify in support of Senate Bill No. 122 which makes some minor amendments to the Kansas Securities Act.

Summary. Senate Bill No. 122 would conform the anti-fraud provisions of the Act to also pertain to investment advisers as already provided in the Model Uniform Securities Act. The amendments would enhance and clarify the agency's anti-fraud enforcement authority over both state registered investment advisers and federal covered advisers (as defined in K.S.A. 17-1252(o)).

Fiscal Impact. There should be no fiscal impact.

Policy Implications and Impact on the Agency Strategic Plan. In 1996, Congress enacted the National Securities Markets Improvement Act ("NSMIA") which ended a 14-month long debate over proposed reforms to federal and state securities regulation.

A significant NSMIA change was to divide the regulation of investment advisers between the states and the SEC. The states are now the sole regulator of investment advisers managing less than \$25 million in client assets ("state covered advisers"), while the SEC retains the primary responsibility for investment advisers managing mutual funds or large portfolios ("federal covered advisers").

Thus, federal covered advisers are no longer licensed by the state, but now submit "notice filings" to the Securities Commissioner. The only regulatory authority the state has over federal covered advisers is to investigate and bring enforcement actions with respect to fraud or deceit.

The proposed Model amendments would bring Kansas law into conformity with a number of other states and would enhance investor protection by clarifying the agency's anti-fraud enforcement authority over investment advisers. Investors are increasingly utilizing the services of investment advisers and state regulation should be prepared for future complaints.

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Attachment 3