

Approved: April 8, 1999  
Date

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 8:00 p.m. on March 26, 1999 in Room 527-S of the Capitol.

All members were present except:

Representative Boston - Excused  
Representative Helgerson - Excused  
Representative Mayans - Excused  
Representative Toelkes - Excused  
Representative Tomlinson - Excused

Committee staff present:

Dr. Bill Wolff, Legislative Research  
Bruce Kinzie, Office of Revisor  
Maggie Breen, Committee

Conferees appearing before the committee:

Others attending: See Attached List

Chairman Cox asked Dr. Bill Wolff to update the committee on the Senate changes that were made to **Sub 301- Consumer credit; consumer credit code.**

Dr. Bill Wolff, presented a handout which is a brief summary of what's in the bill. (**Attachment 1**) The Senate made a number of very technical changes, sub paragraph adjustments, paragraph adjustments, internal reference, reordering, etc. Three other changes to the bill are reflected in the handout sheet. **Sub 301** took the cap off of open ended consumer loans for credit card purposes, but it capped closed end consumer loans at 21%. One of the Senate of the Whole amendments is to put back into the code a 36% rate on the first \$860 on the closed end of a consumer loan. That's current law. The original idea was to apply 21% to all of those loans, but the Senate was asked to put back the 36% on the first \$860. When the Senate took off that cap, it also removed the cap that was in the statutes for payday loans because it was just there by reference, over in the payday loan section. By putting that \$860 cap back in 16a-2-401, it also puts an \$860 cap back on payday loans. Those are 2 things the Senate did. Then in the original bill there was language there that says "for the purpose of calculating finance charges the lender could use 365 days or 360 days. The Senate did clarify that the lender could say that every month had 30 days regardless of how many day that were in the month. So, 1) the cap is back on closed-end consumer loans at 36% on first \$860, 2) the \$860 cap is back for payday loans, and 3) recognizing 30 day months rather than the actual number of days in each month is permitted.

Chairman Cox said he would entertain a motion on **Sub 301.**

**Representative Minor made a motion to move Sub 301 out favorably. Representative Humerickhouse seconded the motion. The motion carried.**

Chairman Cox asked the committee's pleasure on **HB 2554 - Creating the Kansas agricultural linked deposit program.**

**Representative Larkin restated his motion from March 22 to adopt the balloon on HB 2554. Representative Burroughs seconded the motion. The motion carried.**

**Representative Larkin moved to pass HB 2554 out favorably as amended. Representative Burroughs seconded the motion.**

Representative Humerickhouse stated he opposed the motion as it gave relief to farmers that are id specific. It bothers him that the state would be giving up interest on that much money. He thinks there are better ways to help the farmers.

## CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS, Room 527-S Statehouse, at 8:00 a.m. on March 26, 1999.

Representative Larkin said he looks at it as a kind of targeted care approach. We spend millions of dollars each year giving business incentives to do this or that because it's better for the state in the long run. In this case the farmers will have better grain storage. It gives them many more options. When they make more income, they will pay more taxes. It's at a time when there's a severe grain storage shortage. And it's not only for identity preserved crops. All farmers who need additional grain storage can profit.

Representative Krehbiel said he initially shared Representative Humerickhouse's skepticism of the bill until he received 4 or 5 calls from farmers in his district who said they would use it. That relieved his concern that it was something we were trying to put out there that didn't have much of a practical consequence. He thinks people really will use it to build needed grain storage.

Representative Cox asked Representative Larkin if people who really need this will be able to access it. Or, will it be a factor with the bank if they are a little shaky on their credit? In other words, are just the ones who are successful going to be able to access it?

Representative Larkin said the bankers will determine who qualifies for the loan. There are a lot of small town bankers who help out people who are struggling, knowing they're good to pay it back. However, if they are on extremely shaky financial ground, they are not going to see this help. Chances are if someone is in extreme financial trouble they won't even consider it because, even though the interest rate would be low, the loan still needs to be paid back.

There were various other comments going back and forth stating the perceived merits and perceived shortcoming of the bill.

Chairman Cox asked Representative Larkin to close. Representative Larkin said this program is small and has a relative small fiscal note for a purpose. It's attempting to be an incentive to target one specific problem, which has been identified by the Governor and people in the area of grain storage in Kansas. This is an incentive that will help in providing additional storage for all grains, including organic crops and identity preserve crops. And, whether we like it or not, the identity preserved crops are going to be a major issue in the next several years. If this small incentive program helps these producers, he thinks it's beneficial for the price tag and he moved the motion.

The motion carried.

Chairman Cox presented the committee minutes for March 15<sup>th</sup> and March 17<sup>th</sup>. Representative Empson said the March 15<sup>th</sup> minutes showed that Chuck Stones was with the "American" Bankers Association rather than the Kansas Bankers Association, that the text showed "HB 2544" several times rather than HB2554 and that the March 17<sup>th</sup> minutes showed that Chairman Cox said the "committed" would work the bill rather than the committee would work the bill.

Representative Grant moved to approve the minutes as corrected. Representative Empson seconded the motion. The motion carried.

The meeting adjourned at 8:30 a.m.

The committee is not scheduled to meet again this session.

The committee minutes were sent to committee members on April 2, 1999 with the understanding that the minutes would be considered approved if no additions, deletions, or corrections were received by 5:00 p.m. on April 8, 1999. None were received.



March 17, 1999

## SUBSTITUTE FOR S.B. 301

Sub. for S.B. 301 is a complex piece of legislation. The bill originated from a task force formed by the acting Consumer Credit Commissioner who believed that Kansas law applicable to consumer transactions needed to be updated in order to regulate new activities in the marketplace (particularly interstate solicitation of mortgage loans) and interstate activities of financial institutions. The bill is intended to both regulate lenders and sellers at appropriate levels and protect consumers in credit transactions.

Without going into all the detail of the bill, generally Sub. for S.B. 301 does the following:

### **Mortgages:**

- Brings high interest rate mortgages and high loan-to-value mortgages under the Uniform Consumer Credit Code (Code) and subjects the makers of such loan to the limitations and restrictions contained in the Code. Appraisals are required on high loan-to-value loans and consumers must be advised of the risks of such loans.

### **Code Enforcement:**

- Significantly expands the power of the Administrator of the Code to enforce its provisions both in and out of state, by administrative action or court decision if necessary.

**Consumer Loan Rates** (changes here are intended to allow Kansas banks that issue credit cards to compete in the national market for customers—these kinds of rates, charges, terms, and conditions are exportable across the country just as the rates, charges, terms, and conditions are exported into Kansas from other states):

- Removes the interest rate cap on open end consumer credit (lender credit cards and lines of credit). Further, a cap of 21 percent is placed on closed end consumer loans (up from 18 percent).
- Removes the various caps on charges other than the finance charge that can be made on lender credit card transactions.

*House Financial Institutions*  
3-26-99  
Attachment 1

- Caps prepaid finance charges at 8 percent of the amount borrowed on loans secured by real estate with not more than 5 percent of that amount payable to the lender (the prepaid finance charge includes any fee paid to a broker).
- Caps prepaid finance charges on other loans and sales at the lesser of 2 percent or \$100.

### **Consumer Protections**

- Requires prompt crediting of payments to accounts.
- Regulates and provides consumer information on high rate and high loan-to-value loans.
- Prohibits balloon payments and negative amortization on high rate and high loan-to-value loans.
- Expands administrators regulatory authority over licensees.
- Caps fees and charges that can be made in addition to finance charges.

### **Senate Committee of the Whole**

The Senate Committee of the Whole amendments make several technical changes to the bill, and additionally:

- provide for an interest rate of 36 percent on the first \$860 of a closed end consumer loan (current law reinserted);
- reinstate that same amount, \$860, as the cap on payday loans (current law reinstated); and
- allow a lender, in computing the finance charge on consumer credit loans and sales, to assume that a month has 30 days, regardless of the actual number of days in the month (this amendment corresponds to the new language added in the bill to allow the finance charge to be calculated on a 365\365 or 360\360 basis).