

Approved: Feb. 17, 1999  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE .

The meeting was called to order by Chairperson Senator Don Steffes at 9:00 a.m. on February 11, 1999 in Room 529 S of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Research  
Ken Wilke, Office of Revisor  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Judi Stork, Acting Bank Commissioner  
Chuck Stones, Kansas Bankers Association  
Sue Anderson, Community Bankers Association  
David Brant, Acting Commissioner of Consumer Credit

Others attending: See Attached

Chairman Steffes opened the meeting by thanking all those involved in the development of the very important banking legislation: the Subcommittee, the banking industry and associations, Judi Stork of the Office of State Bank Commissioner, and David Brant, Commissioner of Securities and Acting Commissioner of Consumer Credit.

Senator Praeger gave an overview of the Subcommittee's report on **SB 240**, **SB 260**, and **SB 271**. She explained the purpose of each bill and Chairman Steffes declared the hearings to be open.

**Hearing on SB 240 - Bank Commissioner; duties and qualifications**

Judi Stork, Acting Bank Commissioner, presented a balloon amendment addressing the conflict of interest issue for a bank commissioner (Attachment 1). The Bank Commissioner would not be an officer, director, employee or consultant of :

- any state or national bank or bank holding company
- any affiliate or a state or national bank or bank holding company; or
- any other entity regulated by the commissioner

Chuck Stones, Kansas Bankers Association, presented testimony supporting the bill with the following exceptions (Attachment 2):

- need to require the banking experience be in a national or state bank "in this state."
- delete section allowing regulatory experience to solely qualify a person for the job as Bank Commissioner
- delete "director" and "or consultant" from those activities in which the Bank Commissioner cannot serve while acting as Commissioner.

Written testimony was received from Charles E. Thacker, opposing including out-of-state bankers in the pool of candidates for State Bank Commissioner (Attachment 3).

Sue Anderson, Executive Director of Community Bankers Association of Kansas, supported the proposed legislation with the following exceptions (Attachment 4):

- change Commissioner's experience requirements to a minimum of five years experience in the banking industry (either state or national) "in the state of Kansas."
- regulatory experience must also include actual bank experience
- allow Bank Commissioner to remain in on his or her bank board in an advisory capacity.

Ms. Anderson reminded the Committee of the excellent reputation the Office of the State Bank Commissioner has enjoyed and the national recognition it has received.

The Committee questioned the ability of a Bank Commissioner to serve full time in this capacity and attend Bank Board meetings as they are normally held during the work week. They also assured the representative from the Kansas Bankers Association that "personalities" did not play a role in their decision-making process

CONTINUATION SHEET  
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

regarding setting qualifications and proposed duties of the Bank Commissioner.

Chairman Steffes closed the hearing on **SB 240**.

**Hearing on SB 260 - State banking board; transfer of certain powers and duties to the state bank commissioner**

Chuck Stones, Kansas Bankers Association, questioned the necessity of adding "savings and loan experience" to the list of qualifications of Bank Board members.

Judi Stork, Acting State Bank Commissioner, requested the addition of technical amendments to the bill and to move bank meetings to once a month rather than "at least quarterly" or at the request of the Commissioner (Attachment 5).

Sue Anderson, Community Bankers Association of Kansas, testified that her membership is concerned that too much power is being transferred from the Board to the Commissioner. The system currently in place of "checks and balance" has worked well. She also questioned the removal of the appeal process even though there has only been one appeal in years. The CBA wants the Office of the State Bank Commissioner to be seen as open to the public and easily accessible to the consumer.

Chairman Steffes closed the hearing on **SB 260**.

**Hearing on SB 271 - State consumer credit commissioners; transfer of powers and duties to state bank commissioner**

Judi Stork, Acting State Bank Commissioner, provided testimony supporting the bill which would combine the Office of the Consumer Credit Commissioner into the Office of the State Bank Commissioner (Attachment 6). She also offered amendments regarding the appointment of two deputy commissioners, experience requirements for the deputies, and their proposed responsibilities.

Acting Commissioner of Consumer Credit Brant advised the Committee of the alternatives of either requesting increased funding for the Consumer Credit Department, expansion of staff, and the strengthening of regulatory powers; or merging it with a compatible partner agency, i.e., banking (Attachment 7). Reasons cited for merger were:

- equalize consumer protection between state regulators
- coordination in regulating the mortgage industry
- achieve uniformity in the interpretation and enforcement of the Uniform Consumer Credit Code
- share and maximize staff utilization

There would be no expected cost savings with this merger, rather they would work towards efficiency and coordination. Commissioner Brant recommended that the Deputy Commissioner of Consumer Credit act as the administrator of the Uniform Commercial Credit Code. He also recommended that the Advisory Board to the Consumer Credit Division not be statutorily prescribed but rather be left to the discretion of the Bank Commissioner and the Deputy Commissioner of Consumer Credit.

Chuck Stones, KBA, reminded the Committee that the Bank Department was a fee supported agency and felt that the expenses should be shared between the agencies. The statement in his testimony regarding not letting "personalities play a role in your decision making process" was directed toward the positive personalities of those currently acting in management roles at the Department and he was urging to the Committee to think of the future when such personality types might not be in such roles.

George Barbee, Kansas Association of Financial Services, spoke in support of the amendments presented by Commissioner Brant. He suggested appointing persons to serve on the Advisory Consumer Credit Board as they were needed.

The existing Subcommittee on banking legislation agreed to meet with interested parties to discuss the presented amendments and problem areas.

Chairman Steffes closed the Hearing on **SB 271**. The next meeting is February 15, 1999.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE GUEST LIST

DATE: 2-11-99

NAME	REPRESENTING
Judi Stork	OSBC
Sonya Allen	OSBC
Kevin Glendening	OSBC
Uyima Stan	Federico Consulting
Sue Schmeyer	Ks Credit Union Assn.
Tom GACHES	McGill, GACHES & ASSOCIATES
George Barbee	Barbee & Assoc's
Bill Robbins	Farmers Bank - Great Board
PHIL BARBER	FARMERS & MERCHANTS ST AL WAKEFIELD, KS
Kately Olsen	KBA
Sue Anderson	CBA
JAMES A. NEEDHAM	CBA
Chuck Stones	KBA
Danielle Noe	Governor's Office
Marc Hamann	Div. of the Budget
John Hanna	Associated Press
Matt Goddard	HCBA
Roger Trautzel	KGC
Tinky Winky	Teletubbies

# SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE GUEST LIST

DATE: 2-11-99

NAME	REPRESENTING
<i>Ray Cox</i>	<i>House FI</i>
<i>Kevin Dillon</i>	<i>Legal Intern - Sen Praeger</i>



# SENATE BILL No. 240

By Committee on Financial Institutions and Insurance

2-5

9 AN ACT concerning the bank commissioner; relating to duties and qual-  
10 ifications; amending K.S.A. 75-1304 and repealing the existing section.  
11

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

13 Section 1. K.S.A. 75-1304 is hereby amended to read as follows: 75-  
14 1304. (a) The governor shall appoint, subject to confirmation by the sen-  
15 ate as provided in K.S.A. 75-4315b, a state bank commissioner whose  
16 term of office shall be four years and who shall serve until a successor is  
17 appointed and qualified. ~~No person shall be eligible for appointment as~~  
18 ~~commissioner unless the person has had five years actual banking expe-~~  
19 ~~rience as an executive officer in a state bank in this state.~~ If a vacancy  
20 occurs in the office of the commissioner prior to the expiration of a term,  
21 the vacancy shall be filled for the unexpired term by appointment by the  
22 governor.

23 (b) *No person shall be eligible for appointment as commissioner un-*  
24 *less such person has:*

25 (1) *At least five years actual experience as an executive officer in a*  
26 *state or national bank; or*

27 (2) *at least five years actual experience in a management position in*  
28 *a federal or state agency which regulates banks.*

29 (c) *The commissioner shall devote the commissioner's time and atten-*  
30 *tion to the business and duties of the office on a full-time basis.*

31 (d) *While serving as bank commissioner, the commissioner shall not*  
32 *be an officer, director, employee or consultant of ~~any bank, bank holding~~*  
33 *~~company, affiliate or any other entity regulated by the commissioner.~~*

34 Sec. 2. K.S.A. 75-1304 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the Kansas register.

(1) any state or national bank or bank holding company  
(2) any affiliate of a state or national bank or  
bank holding company; or  
(3) any other entity regulated by the commissioner.

# Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

785-232-3444 Fax - 785-232-3484 kbacs@ink.org

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2-14-99

TO: Senate Financial Institutions and Insurance Committee  
FROM: Chuck Stones, Director of Research

RE: SB 240

Mr. Chair and Members of the Committee,

Thank you for the opportunity to appear before you regarding SB 240. As you are aware, SB 240 will dramatically change the qualifications for the office of Bank Commissioner. This issue has been a significant journey over the past few years for the bankers in Kansas. They have read about it in the newspapers for quite some time. Many have had and some still have strong feelings about the issue. However, they have come a long way from earlier positions to the position we now have of this proposed legislation.

The KBA is not opposed to the majority of the bill. We are not opposed to most of the major changes proposed by this bill. In fact, we object to only three points of the bill. These objections fall into two categories: 1) Qualifications - We feel that qualifications or parameters should be set in place by the legislature to insure the type of person required for the job is selected. These parameters are to insure that current and future Governors are guided by these parameters to select a qualified person for the job. The new Governor of another state is currently making headlines for some of his appointments. I suspect the legislators in that state wish they had defined the qualifications for those appointments a little more narrowly. We feel it is paramount for the legislature to set the parameters they want for the job, rather than open the process for potential results like we have seen in the newspapers lately from this other state.

Our first specific objection occurs in sub (b). We feel strongly that "in this state" should be added to (1), line 26. Kansas is a unique state with unique types of industries. Lending to these industries, such as cattle, petroleum, production agriculture, etc. requires specialized knowledge. We had severe difficulty in the 1980's when federal examiners were brought in from other states to help with the examination workload. These examiners were not familiar with the types of lending in Kansas and the special knowledge needed to determine the quality of those loans. Many had never seen a pen of cattle, a field of wheat or an oil well. They were not qualified to examine those types of banks. There is a difference between production agricultural lending in wheat country and lending in tobacco, cotton, or orange country. There is a difference between a state with five banks and a state with almost 400, mostly small independent community, banks. The Office of the Comptroller of the Currency has issued a glossary book for new examiners in which they define several terms. Among them is the term "piglet". Hopefully, Kansas would not be forced to issue a similar handbook to a new Bank Commissioner.

The office of Bank Commissioner is also different from other State administrative or cabinet positions. The evaluation of loans to a particular industry by a specific bank in a specific trade territory seems far different than the skills needed to administer a foster care program, for example, which would use specialized types of skills, yet generic from state to state.

Senate Financial Institutions & Insurance

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Attachment # 2

This issue also goes to the very unique nature of the dual banking system. The dual system is unique to banking and was, in part, established to allow states to adjust to the uniqueness of their own situations and circumstances. Other industries and agencies, not subject to a dual federal and state system, are not as dependent on the need for a Commissioner who evaluates the needs of the State and local communities. Other agency heads are not asked to preserve the state portion of a dual regulatory system.

Our second objection is sub (b)(2). We would favor the deletion of lines 27 & 28, allowing regulatory experience to solely qualify a person for the job as Bank Commissioner. We believe it is entirely different sitting on the business side of a desk and being responsible for complying with all the laws and regulations of the banking industry than it is on the other side of the desk determining whether or not a bank has complied with those laws and regulations. We feel strongly that it is important for the Bank Commissioner to have been on the business side of that desk for at least some part of his or her career. We feel it is important for the Bank Commissioner to have made a loan, turned down a loan, watched a loan go bad or possibly watched as a customer/neighbor struggles to make the payments on a loan. This gives a person an entirely different perspective on the banking business as well as life. A perspective we feel is important in a Bank Commissioner, especially during hard economic times when it is the Commissioners duty alone to determine when a bank becomes insolvent.

It would seem prudent in this area to be careful not to let personality play a role in your decision making process. We would probably agree that a specific person in the banking department might be a good Commissioner, but could also name several more who have served in that position, that would not. It is dangerous to make statutory changes based on the personality or soundness of a particular person.

Our third objection falls under the general heading of perceived conflicts. Specifically deleting the words, "director" and "or consultant" from Section 1,(d), line 32. People work hard their entire lives to establish a successful business. We have no objection to prohibiting active participation in the day to day activities or active employment at a bank. We do not object to prohibiting that person from being the chair of the board of directors. We do, however, feel that if a person is willing to submit himself or herself to public service it is unreasonable to expect him or her to turn total control of the business to other people who might not have as large a stake in the success of the business. They should be able to maintain a seat on the board of directors so they can, at least, maintain a voice in the policy decisions of the business. Also, if the size of the pool of qualified candidates were a concern, this portion of the bill would drastically shrink the size of that pool. We, too, believe the pool should be as large as possible. However, that pool needs to be made up of people qualified to be the State Bank Commissioner for the State of Kansas.

In conclusion, while this issue has been very emotional, the bankers of Kansas have seen the need to come together and support the parts of this bill that they consider reasonable. We would urge the Committee to consider whether or not, in the name of openness, they may be allowing someone totally unfit to be appointed to the position of Bank Commissioner. We would urge to re-consider the issues we have discussed.

# CHARLES E. THACKER

8214 PARK STREET • LENEXA, KS 66215

(913) 541-9659

## COMMENTS FOR KANSAS LEGISLATURE ON BANK COMMISSIONER QUALIFICATIONS

I HAVE FOLLOWED WITH INTEREST THE EFFORTS TO REDEFINE THE QUALIFICATIONS FOR THE POSITION OF KANSAS BANK COMMISSIONER. MY PURPOSE TODAY IS TO CONTRIBUTE SOME ADDITIONAL THOUGHTS INTO YOUR DELIBERATIONS, THOUGHTS BASED ON MY EXPERIENCES. BUT FIRST, LET ME OUTLINE MY BACKGROUND AND EXPERIENCES. I RETIRED FROM THE FDIC SEVEN YEARS AGO AFTER A 32 YEAR CAREER. MY 32 YEARS OF BANK REGULATORY EXPERIENCE CONSISTS OF NINE YEARS AS A FIELD BANK EXAMINER; 7½ YEARS AS A STAFF PERSON IN WASHINGTON; 6½ YEARS AS ASSISTANT REGIONAL DIRECTOR AND REGIONAL DIRECTOR IN OMAHA; TWO YEARS AS AN ASSOCIATE DIRECTOR IN WASHINGTON WHERE I SERVED AS THE FDIC'S POINT MAN ON THE AGRICULTURAL CRISIS, DEALING WITH INDUSTRY GROUPS AND PROVIDING TESTIMONY BEFORE CONGRESSIONAL COMMITTEES; AND ABOUT SEVEN YEARS AS REGIONAL DIRECTOR IN KANSAS CITY OVERSEEING FDIC REGULATORY RESPONSIBILITIES IN SEVEN STATES. I ALSO SERVED FOR AWHILE AS DEPUTY TO FDIC VICE CHAIRMAN SKIP HOVE. MY TENURE AS REGIONAL DIRECTOR INCLUDED DEALING WITH THE FAILURE OF ABOUT 225 BANKS, A SIGNIFICANT PORTION OF WHICH WERE KANSAS BANKS. THESE BANK FAILURES LEFT AN INDELIBLE IMPRESSION ON ME. CURRENTLY, I AM A DIRECTOR OF A STATE BANK WITH OFFICES IN WYANDOTTE AND JOHNSON COUNTIES, DO SOME CONSULTING AND EXPERT WITNESS WORK, AND SERVE ON THE CADRE OF THE CONFERENCE OF STATE BANK SUPERVISORS WHICH EVALUATES STATE BANKING DEPARTMENTS FOR ACCREDITATION PURPOSES.

Senate Financial Institutions & Insurance

Date 2/11

Attachment # 3



COMMENTS FOR KANSAS LEGISLATURE ON  
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NOW LET ME COMMEND YOU FOR STRENGTHENING THE COMMISSIONER'S OFFICE BY REQUIRING THAT THE INCUMBENT SERVE FULL-TIME AND NOT CONCOMITANTLY SERVE AS AN OFFICER OR EMPLOYEE OF ANY INSTITUTION WHICH IS REGULATED BY THE DEPARTMENT. HOWEVER, I HAVE SOME RESERVATIONS OVER EXCLUDING THE COMMISSIONER FROM SERVICE AS A DIRECTOR OF AN INSTITUTION REGULATED BY THE DEPARTMENT. WHILE I UNDERSTAND CLEARLY THE LOGIC OF YOUR PROPOSAL, I BELIEVE THE SAME OBJECTIVE COULD BE ACHIEVED BY ERECTING APPROPRIATE FIRE-WALLS. SPECIFICALLY, TO AVOID CONFLICTS OR THE APPEARANCE OF CONFLICTS, THE COMMISSIONER COULD BE REQUIRED TO RECUSE HIMSELF OR HERSELF FROM ANY REGULATORY MATTERS INVOLVING THE INSTITUTION FOR WHICH HE OR SHE MAY BE SERVING AS A DIRECTOR AND FROM ANY SUPERVISORY ACTIONS RELATING TO DIRECT COMPETITORS OF THAT INSTITUTION. THE DEPUTY COMMISSIONER COULD HANDLE ALL REGULATORY MATTERS INVOLVING THOSE FEW INSTITUTIONS. SUCH AN APPROACH WOULD SEEM TO BROADEN SIGNIFICANTLY THE POOL OF PROSPECTS FOR THE POSITION OF COMMISSIONER, DEAL WITH THE CONFLICTS PROBLEM, AND NOT PRESENT ANY REAL ADMINISTRATIVE HEADACHES. SUCH AN APPROACH IS FREQUENTLY USED IN THE VARIOUS FEDERAL AGENCIES. SO, I WOULD ASK THAT YOU CONSIDER SUCH AN APPROACH.

LET ME ALSO COMMEND YOU FOR EXPANDING THE POOL OF ELIGIBLES FOR COMMISSIONER BY INCLUDING NATIONAL BANKERS. ALTHOUGH THEY MAY NOT HAVE EXPERIENCE WORKING IN A STATE REGULATORY ENVIRONMENT, THEY ARE NONETHELESS EXPERIENCED BANKERS. HOWEVER, I DO HAVE CONSIDERABLE CONCERNS OVER EXPANDING THE QUALIFICATIONS

COMMENTS FOR KANSAS LEGISLATURE ON  
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TO INCLUDE OUT-OF-STATE BANKERS AND REGULATORS. LET ME DEAL WITH THE ISSUE OF OUT-OF-STATE BANKERS FIRST, BECAUSE IT'S THE SIMPLER ISSUE. FIRST, THERE ARE PLENTY OF QUALIFIED PEOPLE IN KANSAS BANKS, AND THERE WOULD APPEAR NO NEED TO GO OUT OF STATE. FURTHER, GOING OUT OF STATE MAY IMPLY THAT YOU DON'T HAVE QUALIFIED PEOPLE IN KANSAS. BUT, SECOND AND MORE IMPORTANT, IS THE ISSUE OF COMMUNITY. REGULATING BANKS IS NOT MERELY A PROCESS OF ADOPTING LAWS AND REGULATIONS AND ASSESSING BANK COMPLIANCE WITH THOSE LAWS AND REGULATIONS. BANK REGULATION MUST ALSO INCLUDE A COMPREHENSIVE KNOWLEDGE AND UNDERSTANDING OF THE COMMUNITIES WHICH ARE SERVED BY BANKS AND HOW BANK REGULATORY ACTIONS AND EFFORTS MAY IMPACT THOSE COMMUNITIES. AFTER ALL, WHILE BANKS SHOULD BE PROFIT PRODUCING PRIVATELY OWNED VENTURES, THEIR SOLE PURPOSE IS TO SERVE THEIR COMMUNITIES. I THINK IT WOULD BE DIFFICULT FOR AN OUT-OF-STATER, AND FOR THAT MATTER, A REGULATOR TO SUCCEED IN THAT ASPECT OF BANK REGULATION, ESPECIALLY CONSIDERING THAT HE OR SHE MAY HAVE ONLY FOUR YEARS IN OFFICE.

NOW LET ME ATTEMPT TO DEAL WITH THE ISSUE OF ALLOWING A PERSON WITH "... 5 YEARS EXPERIENCE IN A MANAGEMENT POSITION OF A STATE OR FEDERAL BANK REGULATORY AGENCY." TO SERVE AS BANK COMMISSIONER. FIRST, THERE'S A PROBLEM WITH THE DEFINITION OF "MANAGEMENT POSITON". THE PRIMARY BUSINESS OF BANKING IS LENDING. PRESUMABLY, YOU WOULD WANT A COMMISSIONER WHO UNDERSTANDS LENDING AND HAS A THOROUGH KNOWLEDGE OF BANK STRUCTURE AND OPERATIONS.

COMMENTS FOR KANSAS LEGISLATURE ON  
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HOWEVER, IT MUST BE POINTED OUT THAT THE VARIOUS REGULATORY AGENCIES ARE VERY COMPARTMENTALIZED AND THE OCCUPANT OF A MANAGEMENT POSITION COULD BE AN ADMINISTRATIVE OR PERSONNEL PERSON, A BUDGET ANALYST, A CONSUMER AFFAIRS SPECIALIST, A POLICY ANALYST, AN ACCOUNTANT, A LAWYER, A LOBBYIST, OR EVEN A LIQUIDATOR. SUCH PERSONS MAY INDEED HAVE VIRTUALLY NO KNOWLEDGE OR EXPERIENCE IN THE REAL WORLD OF BANK OPERATIONS OR REGULATION, AND MAY NOT BE WHO YOU WANT AS A COMMISSIONER. NOW LET ME TALK A LITTLE ABOUT THE VALUE OF HAVING AN EXPERIENCED BANKER WHO ALSO KNOWS THE ECONOMY AND THE COMMUNITIES OF KANSAS AS COMMISSIONER. DURING THE MID-1980'S WHEN I SERVED AS FDIC REGIONAL DIRECTOR IN KANSAS CITY, I'M SURE YOU'LL RECALL THAT KANSAS SUFFERED THROUGH A VERY BAD ECONOMY AND A NUMBER OF BANKS FAILED. PROFESSIONAL REGULATORS ARE TRAINED TO BE DISPASSIONATE, EVEN DISTANT, AND TO DEAL WITH PROBLEMS IN A MANNER THAT PROTECTS THE DEPOSIT INSURANCE FUND AND THE REGULATORY REPUTATION OF THEIR AGENCIES. IMPACT ON PEOPLE AND COMMUNITIES MAY RECEIVE SOME CONSIDERATION, BUT USUALLY ONLY AS A LAST RESORT. WHILE I WAS THE REGIONAL DIRECTOR I WAS FORTUNATE TO WORK WITH EXPERIENCED BANKER/COMMISSIONERS SUCH AS GENE HEGARTY, GENE BARRETT, NEWTON MALE AND FRANK DUNNICK. MOST OF THE FAILURES OCCURRED WHILE GENE BARRETT WAS COMMISSIONER. THERE WERE A NUMBER OF SITUATIONS INVOLVING THE IMMINENT FAILURE OF A SMALL COMMUNITY BANK WHEN TENSIONS RAN VERY HIGH, AND IN SOME, VIOLENCE MAY HAVE OCCURRED. WE DID HAVE SOME VIOLENT

COMMENTS FOR KANSAS LEGISLATURE ON  
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PAGE 5

SITUATIONS IN OTHER STATES. BUT GENE BARRETT, AS A FORMER  
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ITIES AND SOME OF THE PEOPLE IN THEM, WAS ABLE AS COMMISSIONER  
TO INJECT HIS INSIGHT, SOOTHE OVER SOME VERY ROUGH SITUATIONS,  
AND STILL GET THE JOB DONE. HAD IT NOT BEEN FOR THAT INSIGHT  
AND INTERVENTION, I BELIEVE THAT THE CRISIS OF THE '80'S WOULD  
HAVE BEEN FAR WORSE. AND I DOUBT SERIOUSLY THAT THIS WOULD  
HAVE OCCURRED IF BOTH THE STATE AND FEDERAL REGULATORS WERE  
PURE PROFESSIONAL REGULATORS. IN SUM, I THINK HAVING A  
COMMISSIONER WITH BANKING EXPERIENCE ADDS SOME BALANCE TO THE  
REGULATORY SCHEME.

I APPRECIATE YOUR TIME AND ATTENTION AND ASK THAT YOU GIVE  
MY OBSERVATIONS APPROPRIATE CONSIDERATION IN YOUR DELIBERATIONS  
ON THIS IMPORTANT ISSUE.

THANK YOU.

*Charles Shaker*





To: Senate Financial Institutions & Insurance Committee

Re: Senate Bill 240

Date: February 11, 1999

Thank you for the opportunity to comment on Senate Bill 240, relating to the duties and qualifications of the State Bank Commissioner. We have appreciated the opportunity to express opinion and hold discussions with those of you who served on the Chairman's subcommittee on this issue.

In its current form, CBA cannot support SB 240. While the Association does support requiring that the State Bank Commissioner serve on a full time basis to perform the duties and responsibilities of the office, we feel the bill goes too far in separating the Commissioner from the industry. Just as those committee members with actual experience in the area of financial institutions and insurance are invaluable in the policies and decisions made here, so too, it is important that the State Bank Commissioner have actual experience in a bank.

With that thought in mind, we offer the following amendments. Suggested language for these amendments is attached. The concept of the amendments is as follows:

1. CBA supports changing the Commissioner's experience requirement to include a minimum of five years experience in the banking industry *in the state of Kansas*, whether it is from state *or national* bank experience. Having some banking experience in the state is a necessary ingredient to assure that the candidate has a knowledge and understanding of the Kansas economy and its ebb and flow. Just as Kansas legislators are required to meet Kansas residency standards before serving in the legislature, so candidates for the office of state bank commissioner should meet Kansas experience standards. This would not preclude drawing on a pool of candidates which may have executive experience in another state as long as they held at least five years of experience in a Kansas bank.
2. Under the eligibility requirements of SB 240, the bill would permit regulatory experience in a state or federal bank regulatory agency in lieu of actual banking experience. Our members strongly believe that revising the bank commissioner's qualifications in such a way as to completely eliminate banking experience is not in the best interest of the public or the financial institutions regulated. Regulatory experience without banking experience is unacceptable to us. State chartered banks are regulated by the state bank commissioner and by either the FDIC or the Federal Reserve. One of those regulators should be a regulator with actual bank experience. This just brings reasonable balance to the regulatory standard.
3. While serving as bank commissioner, the commissioner will not be an officer, employee or consultant of any bank, bank holding company or affiliate but may serve as an advisory director of a bank in which the commissioner owns stock. Currently, SB 240 would require that anyone serving as bank commissioner must not be an officer, director, employee or consultant of any bank, bank holding company, affiliate or any other entity regulated by the commission. Distancing oneself from the day to day operations of a bank is a good requirement, for anyone accepting the job as bank commissioner. However, the requirement to ban this person from serving on his or her own bank board may go a step too far. If the commissioner is a major stockholder in the bank, the ability to serve on that bank's board - even in an advisory capacity - is a necessary and precautionary step.

We appreciate your willingness to consider our comments and observations during the subcommittee meetings and genuinely hope you will give careful consideration to the concerns expressed here. There is one thing upon which we can all agree. It is good to have effective oversight over financial institutions. This is in the best interest of the state as well as its citizens. In the state of Kansas, the present system has obtained national accreditation and continued re-certification from the Conference of State Bank Supervisors to assure that the highest standards of regulatory oversight are being applied. We applaud the OSBC in Kansas for taking this step in assuring excellence in performing the oversight of safe and sound operation of Kansas banks.

Senate Financial Institutions & Insurance

J. Sue Anderson  
Executive Director

*Directed By The Members We Serve*

Date 2/11/99

2942-B SW Wanamaker Drive • Suite 2A • Topeka, Kansas 66614-4186 • Phone Attachment # 4

Session of 1999

SENATE BILL No. 240

By Committee on Financial Institutions and Insurance

2-5

9 AN ACT concerning the bank commissioner; relating to duties and qual-  
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16 term of office shall be four years and who shall serve until a successor is  
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18 ~~commissioner unless the person has had five years actual banking experi-~~  
19 ~~ence as an executive officer in a state bank in this state.~~ If a vacancy  
20 occurs in the office of the commissioner prior to the expiration of a term,  
21 the vacancy shall be filled for the unexpired term by appointment by the  
22 governor.

23 (b) *No person shall be eligible for appointment as commissioner un-*  
24 *less such person has:*

25 (1) *At least five years actual experience as an executive officer in a* Kansas  
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27 ~~*—(2) at least five years actual experience in a management position in—*~~  
28 ~~*a federal or state agency which regulates banks.*~~

29 (c) *The commissioner shall devote the commissioner's time and atten-*  
30 *tion to the business and duties of the office on a full-time basis.*

31 (d) *While serving as bank commissioner, the commissioner shall not*  
32 *be an officer, director, employee or consultant of any bank, bank holding*  
33 *company, affiliate or any other entity regulated by the commissioner.*

34 Sec. 2. K.S.A. 75-1304 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the Kansas register.

\*link to INK Utility Page

Judi Stork

1 Sec. 2. K.S.A. 1998 Supp. 9-539 is hereby amended to read as fol-  
2 lows: 9-539. The commissioner shall adopt such rules and regulations as  
3 shall be necessary to carry out the intent and purposes of K.S.A. 9-519  
4 through 9-524, and amendments thereto, and K.S.A. 9-532 through 9-  
5 539, and amendments thereto, which shall be known as the bank holding  
6 company act. All rules and regulations of general application shall first be  
7 submitted by the commissioner to the state banking board for its approval  
8 and upon approval shall be filed as provided by article 4 of chapter 77 of  
9 the Kansas Statutes Annotated.

10 Sec. 3. K.S.A. 9-802 is hereby amended to read as follows: 9-802.  
11 The existence of any bank or trust company as a corporation shall date  
12 from the filing of its articles of incorporation from which time it shall  
13 have and may exercise the incidental powers conferred by law upon cor-  
14 porations, except that no bank or trust company shall transact any business  
15 except the election of officers, the taking and approving of their official  
16 bonds, the receipts of payment upon stock subscriptions and other busi-  
17 ness incidental to its organization, until it has secured the approval of the  
18 board and the authorization of the ~~commissioners~~ commissioner to com-  
19 mence business.

20 Sec. 4. K.S.A. 9-804 is hereby amended to read as follows: 9-804.  
21 When the capital of any bank or trust company shall have been paid in,  
22 the president or cashier shall transmit to the commissioner a verified  
23 statement showing the names and addresses of all stockholders, the  
24 amount of stock each subscribed, and the amount paid in by each. The  
25 commissioner shall examine such bank or trust company and shall charge  
26 the statutory examination fee and shall examine especially as to the  
27 amount of money paid in for capital, surplus and undivided profits, by  
28 whom paid, and the amount of capital stock owned in good faith by each  
29 stockholder, and generally whether such bank or trust company has com-  
30 plied with the provisions of law. If the commissioner finds from such  
31 examination that the bank or trust company has been organized as pro-  
32 vided by law, has complied with the provisions of law and has secured  
33 the preliminary approval of the commissioner as authorized by subsection  
34 (b) of K.S.A. 9-1801, and amendments thereto, ~~or the approval of the~~  
35 ~~board~~, the commissioner shall issue a certificate showing that such bank  
36 or trust company has been organized and its capital paid in as required  
37 by law, and that it is authorized to transact a general banking or trust  
38 business as provided by law.

39 Sec. 5. K.S.A. 9-812 is hereby amended to read as follows: 9-812. A  
40 bank corporation shall not change its name until such name change has  
41 been submitted to and approved by the state banking board bank  
42 commissioner.

43 Sec. 6. K.S.A. 1998 Supp. 9-904 is hereby amended to read as fol-

of the board or the approval



1 shall be retired unless the common stock shall be increased in an amount  
2 equal to the amount of the preferred stock retired. All preferred stock  
3 shall be retired consistent with safety to the depositors.

4 Sec. 8. K.S.A. 9-912 is hereby amended to read as follows: 9-912.  
5 Any losses sustained by a bank or trust company in excess of its undivided  
6 profits may be charged to its surplus fund. Any bank or trust company,  
7 after receiving approval from the commissioner, may declare a stock div-  
8 idend from its surplus fund, but no such dividend shall reduce the surplus  
9 fund to an amount less than 30% of the resulting total capital ~~and any~~  
10 bank or trust company may reduce its surplus with permission of the state  
11 ~~banking board~~ bank commissioner.

• and any Any

12 Sec. 9. K.S.A. 9-1001 is hereby amended to read as follows: 9-1001.  
13 Each bank shall maintain reserves against its deposits in such ratios as  
14 shall be determined from time to time by the commissioner ~~with approval~~  
15 ~~of the board~~. Such determinations by the commissioner ~~and the board~~  
16 shall not be subject to the provisions of article 4 of chapter 77 of the  
17 Kansas Statutes Annotated, and amendments thereto.

18 The reserves shall be kept in cash in its vaults or in net balances with  
19 correspondent federal reserve banks or a correspondent bank maintaining  
20 a balance in a pass through account with a federal reserve bank. A bank  
21 shall be given credit against the reserve requirements determined by the  
22 commissioner with approval of the board for any reserves held as required  
23 by the laws or regulations of the federal government or agencies thereof.

24 Sec. 10. K.S.A. 1998 Supp. 9-1101 is hereby amended to read as  
25 follows: 9-1101. Any bank hereby is authorized to exercise by its board of  
26 directors or duly authorized officers or agents, subject to law, all such  
27 powers, including incidental powers, as shall be necessary to carry on the  
28 business of banking, and:

29 (1) To receive deposits and to pay interest thereon at rates which  
30 need not be uniform. The state bank commissioner, ~~with approval of the~~  
31 ~~state banking board~~, may by regulations of general application fix maxi-  
32 mum rates of interest to be paid on deposit accounts other than accounts  
33 for public moneys;

34 (2) to buy and sell exchange, gold, silver, foreign coin, bullion, com-  
35 mercial paper, bills of exchange, notes and bonds;

36 (3) to buy and sell bonds, securities, or other evidences of indebt-  
37 edness of the United States of America or those fully guaranteed, directly  
38 or indirectly, by it, and general obligation bonds of the state of Kansas or  
39 any municipality or quasi-municipality thereof, and of other states, and  
40 of municipalities or quasi-municipalities in other states of the United  
41 States of America. No bank shall invest an amount in excess of 15% of its  
42 capital stock paid in and unimpaired and the unimpaired surplus fund of  
43 such bank in bonds, securities or other evidences of indebtedness of any



1 chase; and

2 (vi) except as part of a reasonable compensation or benefit plan, a  
3 bank is not authorized to purchase life insurance as an estate management  
4 device for the benefit of officers, directors or employees who are also  
5 controlling shareholders of the bank.

6 (b) Life insurance purchased for the sole purpose of providing de-  
7 ferred compensation and benefit plans are subject to the following  
8 limitations:

9 (i) The bank may purchase individual or group policies for the sole  
10 purpose of providing deferred compensation agreements entered into  
11 with its officers and employees;

12 (ii) the bank may purchase policies on directors to fund a deferred  
13 directors fees program;

14 (iii) the board of directors must approve and document such deferred  
15 plans including the reasonableness of the plans;

bank commissioner]

16 (iv) the bank is not authorized to hold the policies unless specifically  
17 approved by the state ~~banking board~~ if no liability exists under the de-  
18 ferred compensation plans;



19 (v) the cash surrender value of any life insurance policy purchased  
20 for the sole purpose of providing deferred compensation and benefit  
21 plans, underwritten by any one life insurance company, cannot exceed at  
22 any time, 15% of the bank's capital stock, surplus, undivided profits, loan  
23 loss reserve, capital notes and debentures and reserve for contingency,  
24 unless the bank has obtained the prior approval of the state bank com-  
25 missioner; and

26 (vi) the cash surrender value of life insurance policies purchased for  
27 the sole purpose of providing deferred compensation and benefit plans,  
28 in the aggregate from all companies, cannot at any time exceed 25% of  
29 the bank's capital stock, surplus, undivided profits, loan loss reserve, cap-  
30 ital notes and debentures and reserve for contingency, unless the bank  
31 has obtained the prior approval of the state bank commissioner;

32 (25) subject to such rules and regulations as the state bank commis-  
33 sioner may adopt pursuant to K.S.A. 9-1713 and amendments thereto to  
34 promote safe and sound banking practices, to act as an agent and receive  
35 deposits, renew time deposits, close loans, service loans, and receive pay-  
36 ments on loans and other obligations for any company which is a subsid-  
37 iary, as defined in subsection (d) of K.S.A. 9-519 and amendments thereto  
38 of the bank holding company which owns the bank. Nothing in this sub-  
39 section shall authorize a bank to conduct activities as an agent which the  
40 bank or the subsidiary would be prohibited from conducting as a principal  
41 under any applicable federal or state law. Any bank which enters or ter-  
42 minates any agreement pursuant to this subsection shall within 30 days  
43 of the effective date of the agreement or termination provide written



1 of such audit shall be filed with the state bank commissioner. Upon re-  
2 ceipt of the report, the bank commissioner shall examine the report and  
3 ~~shall transmit the report, with any recommendations as to action thereon,~~  
4 ~~to the state banking board and the state banking board the commissioner~~  
5 shall, without delay, take such necessary action as may be indicated by  
6 the audit report and the recommendations of the commissioner.

7 Whenever a bank shall fail to comply with the provisions of this section,  
8 the commissioner shall notify the bank that a continuation of such failure  
9 will result in the revocation of its authority to do business. If after receipt  
10 of such notice the bank fails or refuses to comply, the commissioner shall  
11 after a hearing or an opportunity for a hearing has been given to such  
12 bank, revoke its authority to transact business in this state. Hearings shall  
13 be conducted in accordance with the provisions of the Kansas adminis-  
14 trative procedure act. The bank commissioner may grant a reasonable  
15 extension of time for compliance with this section under such rules and  
16 regulations as the state ~~banking board~~ may adopt. During the period of  
17 any such extension of time, the bank receiving the same shall give notice  
18 to persons making deposits, and include in all advertisements made for  
19 the purpose of securing deposits, a statement that the deposits of such  
20 bank are uninsured. The commissioner shall give written notice of such  
21 revocation to the president, cashier, or other managing officer of such  
22 bank, and by publishing a copy of the order of revocation in the Kansas  
23 register. The attorney general shall, at the request of the commissioner,  
24 then begin action for the appointment of a receiver for such bank and to  
25 dissolve same; and the receiver appointed shall take charge of such bank  
26 and liquidate the affairs and business in the same manner as provided in  
27 article 19 of chapter 9 of the Kansas Statutes Annotated, and any amend-  
28 ments thereto.

29 Sec. 19. K.S.A. 1998 Supp. 9-1402 is hereby amended to read as  
30 follows: 9-1402. (a) Before any deposit of public moneys or funds shall  
31 be made by any municipal corporation or quasi-municipal corporation of  
32 the state of Kansas with any bank, savings and loan association or savings  
33 bank, such municipal or quasi-municipal corporation shall obtain security  
34 for such deposit in one of the following manners prescribed by this  
35 section.

36 (b) Such bank, savings and loan association or savings bank may give  
37 to the municipal corporation or quasi-municipal corporation a personal  
38 bond in double the amount which may be on deposit at any given time.

39 (c) Such bank, savings and loan association or savings bank may give  
40 a corporate surety bond of some surety corporation authorized to do busi-  
41 ness in this state, which bond shall be in an amount equal to the public  
42 moneys or funds on deposit at any given time less the amount of such  
43 public moneys or funds which is insured by the federal deposit insurance

bank commissioner

1 corporation or its successor and such bond shall be conditioned that such  
2 deposit shall be paid promptly on the order of the municipal corporation  
3 or quasi-municipal corporation making such deposits.

4 (d) Such bank, savings and loan association or savings bank may de-  
5 posit, maintain, pledge, assign, and grant a security interest in, or cause  
6 its agent, trustee, wholly-owned subsidiary or affiliate having identical  
7 ownership to deposit, maintain, pledge, assign, and grant a security in-  
8 terest in, for the benefit of the governing body of the municipal corpo-  
9 ration or quasi-municipal corporation in the manner provided in this act,  
10 securities, security entitlements, financial assets and securities accounts  
11 owned by the depository institution directly or indirectly through its agent  
12 or trustee holding securities on its behalf, or owned by the depository  
13 institutions wholly-owned subsidiary or by such affiliate, the market value  
14 of which is equal to 100% of the total deposits at any given time, and such  
15 securities, security entitlements, financial assets and securities accounts,  
16 may be accepted or rejected by the governing body of the municipal  
17 corporation or quasi-municipal corporation and shall consist of the fol-  
18 lowing and security entitlements thereto:

19 (1) Direct obligations of, or obligations that are insured as to principal  
20 and interest by, the United States of America or any agency thereof and  
21 obligations, including but not limited to letters of credit, and securities  
22 of United States sponsored corporations which under federal law may be  
23 accepted as security for public funds;

24 (2) bonds of any municipal corporation or quasi-municipal corpora-  
25 tion of the state of Kansas which have been refunded in advance of their  
26 maturity and are fully secured as to payment of principal and interest  
27 thereon by deposit in trust, under escrow agreement with a bank, of direct  
28 obligations of, or obligations the principal of and the interest on which  
29 are unconditionally guaranteed by, the United States of America;

30 (3) bonds of the state of Kansas;

31 (4) general obligation bonds of any municipal corporation or quasi-  
32 municipal corporation of the state of Kansas;

33 (5) revenue bonds of any municipal corporation or quasi-municipal  
34 corporation of the state of Kansas if approved by the state bank commis-  
35 sioner ~~in the case of banks and by the savings and loan commissioner in~~  
36 ~~the case of savings and loan associations or federally chartered savings~~  
37 ~~banks;~~

38 (6) temporary notes of any municipal corporation or quasi-municipal  
39 corporation of the state of Kansas which are general obligations of the  
40 municipal or quasi-municipal corporation issuing the same;

41 (7) warrants of any municipal corporation or quasi-municipal corpo-  
42 ration of the state of Kansas the issuance of which is authorized by the  
43 state board of tax appeals and which are payable from the proceeds of a

1 (D) A status report on all such loans shall be provided to the investing  
2 governmental entity by the financial institution on a quarterly basis.

3 (e) No such bank, savings and loan association or savings bank may  
4 deposit and maintain for the benefit of the governing body of a municipal  
5 or quasi-municipal corporation of the state of Kansas, any securities which  
6 consist of:

7 (1) Bonds secured by revenues of a utility which has been in opera-  
8 tion for less than three years; or

9 (2) bonds issued under K.S.A. 12-1740 *et seq.*, and amendments  
10 thereto, unless such bonds have been refunded in advance of their ma-  
11 turity as provided in subsection (d) or such bonds are rated at least Aa by  
12 Moody's Investors Service or AA by Standard & Poor's Corp.

13 (f) Any expense incurred in connection with granting approval of rev-  
14 enue bonds shall be paid by the applicant for approval.

15 Sec. 20. K.S.A. 9-1601 is hereby amended to read as follows: 9-1601.  
16 Any bank, upon the affirmative vote of at least ~~two-thirds~~ ( $\frac{2}{3}$ )  $\frac{2}{3}$  of the  
17 voting stock, may apply to the commissioner and upon approval granted  
18 by the commissioner and a special permit issued thereon shall be au-  
19 thorized and empowered, subject to such conditions as the commissioner  
20 may require, to act as agent, trustee, executor, administrator, registrar of  
21 stocks and bonds, conservator, assignee, receiver, custodian, transfer  
22 agent, corporate trustee, corporate agent or in any other fiduciary capacity  
23 in the same manner in which trust companies incorporated under the  
24 laws of this state are permitted to act, including but not limited to the  
25 right of succession to individuals, corporations, associations, national bank  
26 associations or others, with or without reappointment, in any such office  
27 or capacities. The commissioner may approve and issue a special permit  
28 to the bank to act in one or more of such fiduciary capacities. However,  
29 if the governing instrument limits investment of funds to deposit in time  
30 or savings deposits in the bank, any bank may act as trustee or custodian  
31 of individual retirement accounts established pursuant to section 408 of  
32 the federal internal revenue code of 1954 1986, and amendments thereto,  
33 or trusts established pursuant to section 401 of the federal internal rev-  
34 enue code of 1954 1986, and amendments thereto, without being issued  
35 a special permit to act in such capacity. Any state bank having been  
36 granted trust authority by the bank commissioner of the state of Kansas  
37 may add "and trust company" to its corporate name as previously ap-  
38 proved by the state ~~banking board~~ *bank commissioner*.

39 Sec. 21. K.S.A. 9-1609 is hereby amended to read as follows: 9-1609.  
40 Any state or national bank or trust company qualified to act as fiduciary  
41 in this state may establish common trust funds for the purpose of fur-  
42 nishing investments to itself as fiduciary, or to itself and others, as cofi-  
43 duciaries or to another state or national bank or trust company, as fidu-

banking board or

1 plication until it first investigates and examines such application and the  
2 applicants.

3 (b) If upon the dissolution, insolvency or appointment of a receiver  
4 of any bank, trust company, national bank association, savings and loan  
5 association, savings bank or credit union, it is the opinion of the commis-  
6 sioner that by reason of the loss of services in the community, an emer-  
7 gency exists which may result in serious inconvenience or losses to the  
8 depositors or the public interest in the community, the commissioner may  
9 accept and approve an application for incorporation and application for  
10 authority to do business from applicants for the organization and estab-  
11 lishment of a successor bank or trust company; ~~subject to confirmation  
12 and subsequent approval by the board. Upon approval of an application  
13 for the organization and establishment of any such successor bank or trust  
14 company, the commissioner shall no later than the next regular meeting  
15 of the board submit such application to the board for its confirmation and  
16 approval.~~

17 Sec. 29. K.S.A. 9-1805 is hereby amended to read as follows: 9-1805.

or board

18 (a) If the ~~board~~ commissioner finds in accordance with this section that  
19 any officer or director of any bank or trust company has been dishonest,  
20 reckless or incompetent in performing duties as such officer or director  
21 or willfully or continuously fails to observe any ~~legally made~~ order of the  
22 commissioner ~~or board~~, the ~~board~~ commissioner may remove such officer  
23 or director.

24 (b) Prior to removing such officer or director, the ~~board~~ commis-  
25 sioner shall conduct a hearing in accordance with the provisions of the  
26 Kansas administrative procedure act.

or board

27 (c) The ~~board~~ commissioner may recess or continue any hearing from  
28 time to time. If upon the conclusion of such hearing the ~~board~~ commis-  
29 sioner determines that the officer or director has been dishonest, reckless  
30 or incompetent in performing duties as such an officer or director, or has  
31 willfully or continuously failed to comply with any ~~legally made~~ order of  
32 the commissioner ~~or board~~, the ~~board~~ commissioner may order the offi-  
33 cer's or director's office forfeited and vacated. The ~~board~~ commissioner  
34 shall mail a copy of its order to the bank or trust company which such  
35 officer or director was serving. During the time from and after any le-  
36 gally made order by the commissioner and upheld by the board, or order  
37 made by the board, and not complied with by any officer or director the  
38 ~~board~~ commissioner may place a special deputy in the bank up to and  
39 until the final disposition of the order by compliance or final disposition  
40 by order of the district court.

41 (d) Any action of the ~~board~~ commissioner pursuant to this section is  
42 subject to review in accordance with the act for judicial review and civil  
43 enforcement of agency actions. If on review the court upholds an order



1 newspaper of general circulation in the county where the proposed trust  
 2 service office is to be located, not less than 10 or more than 30 days prior  
 3 to the date of the hearing, and an affidavit of publication shall be filed  
 4 with the commissioner. At any such hearing, all interested persons shall  
 5 be allowed to present written and oral evidence to the commissioner in  
 6 support of or in opposition to the application. Upon completion of a tran-  
 7 script of the testimony given at any such hearing, the transcript shall be  
 8 filed in the office of the commissioner. Within 14 days after the public  
 9 hearing, the commissioner shall approve or disapprove the application  
 10 after consideration of the application and evidence gathered during the  
 11 commissioner's investigation.

12 (h) The commissioner may extend the period for approval or disap-  
 13 proval if the commissioner determines that any information required by  
 14 this section has not been furnished, any material information submitted  
 15 is inaccurate or additional investigation is required. The commissioner,  
 16 prior to ~~Prior to~~ expiration of the application period as provided in this  
 17 section, ~~the commissioner~~ shall give written notice to the applicant of the  
 18 commissioner's intent to extend the period and such notice shall include  
 19 a specific date for expiration of the extension period. If any information  
 20 remains incomplete or inaccurate upon the expiration of the extension  
 21 period the application shall be disapproved.

22 (i) (h) Within 15 days of the date after the commissioner's approval  
 23 or disapproval of the application, the applicant or any individual or cor-  
 24 poration who filed a request for and presented evidence at the public  
 25 hearing shall have the right to appeal in writing to the state banking board  
 26 the commissioner's determination, request a hearing by filing a notice of  
 27 appeal written request with the commissioner. The state banking board  
 28 shall fix a date for a hearing, which hearing shall be held within 45 days  
 29 from the date such notice of appeal is filed. The board commissioner shall  
 30 conduct the hearing in accordance with the provisions of the Kansas ad-  
 31 ministrative procedure act and render its decision affirming or rescinding  
 32 the determination of the commissioner within 45 days after such request  
 33 is filed. Action of the board commissioner pursuant to this section is sub-  
 34 ject to review in accordance with the act for judicial review and civil  
 35 enforcement of agency actions. Any party which files an appeal to the  
 36 state banking board of the commissioner's determination applicant who  
 37 requests a hearing shall pay to the commissioner a fee in an amount  
 38 established by rules and regulations of the commissioner, adopted pur-  
 39 suant to K.S.A. 9-1713 and amendments thereto, to defray the board's  
 40 commissioner's expenses associated with the conduct of the ~~appeal~~ hearing

41 (j) (i) When the commissioner determines that a trust company dom-  
 42 icated in this state has established or is operating a trust service office in  
 43 violation of the laws governing the operation of such trust company, the

1 commissioner shall give written notice to the trust company of such de-  
 2 termination. Within 15 days after receipt of such notification, the trust  
 3 company may appeal in writing to the state banking board the commis-  
 4 sioner's determination *file a written request for a hearing*. The board  
 5 commissioner shall fix a date for hearing, which hearing shall be held  
 6 within 45 days from the date of such appeal and shall be conducted *con-*  
 7 *duct the hearing* in accordance with the provisions of the Kansas admin-  
 8 istrative procedure act *within 45 days after such request is filed*. At such  
 9 hearing the board shall hear all matters relevant to the commissioner's  
 10 determination and shall approve or disapprove the commissioner's deter-  
 11 mination, and the decision of the board shall be final and conclusive. If  
 12 the trust company does not appeal to the state banking board from the  
 13 commissioner's determination or if an appeal is made and the commis-  
 14 sioner's determination is upheld by the board *request a hearing*, the com-  
 15 missioner may proceed as provided in K.S.A. 9-1714 and amendments  
 16 thereto, until such time as the commissioner determines the trust com-  
 17 pany is in full compliance with the laws governing the operation of a trust  
 18 service office.

19 Sec. 36. K.S.A. 1998 Supp. 74-3004 is hereby amended to read as  
 20 follows: 74-3004. (a) There is hereby created a state banking board which  
 21 shall be composed of nine members. Six members of the board shall be  
 22 bankers with not less than five years' actual banking experience in a state  
 23 bank in this state *or persons with not less than five years' actual experience*  
 24 *in a state chartered savings and loan association in this state, or any*  
 25 *combination thereof* and three shall represent the public interest in the  
 26 regulation, operation and control of state banks and trust companies. ~~All~~  
 27 ~~members shall be selected from the state at large.~~ No nonbanker member  
 28 representing the public interest shall concurrently serve as an officer or  
 29 director in any state or national bank or trust company wherever located.  
 30 ~~One of the nine members shall be elected annually~~ *The commissioner*  
 31 *shall serve* as chairperson of the board. *The commissioner shall not be a*  
 32 *voting member of the board*. The board shall be appointed by the gov-  
 33 ernor. Persons appointed to the board shall be subject to confirmation by  
 34 the senate as provided in K.S.A. 75-4315b, and amendments thereto.  
 35 Except as provided by K.S.A. 1998 Supp. 46-2601, no person appointed  
 36 to the board shall exercise any power, duty or function as a member of  
 37 the board until confirmed by the senate. No more than five members of  
 38 the board shall be from the same political party. Subject to the provisions  
 39 of K.S.A. 75-4315c, and amendments thereto, of the six banker *or savings*  
 40 *and loan association* members, the governor shall appoint one from each  
 41 Kansas congressional district as presently constituted and the remainder  
 42 from the state at large. Appointment of nonbanker members *representing*  
 43 *the public interest* shall be made with due consideration for achieving

from the state at  
 large

1 representation of the various geographic sectors of the state.

2 (b) Except as provided by subsection (c), terms of members of the  
3 board shall be for three years. Each member shall serve until a successor  
4 is appointed and confirmed. No person shall serve more than two terms  
5 as a member of the board. In the event of a vacancy on the board, the  
6 governor shall appoint a new member of the same qualification to fill the  
7 unexpired term.

8 (c) The terms of members who are serving on the board on the ef-  
9 fective date of this act shall expire on March 15, of the year in which such  
10 member's term would have expired under the provisions of this section  
11 prior to amendment by this act. Thereafter, members shall be appointed  
12 for terms of three years and until their successors are appointed and  
13 confirmed.

14 Sec. 37. K.S.A. 74-3005 is hereby amended to read as follows: 74-  
15 3005. Members of the state banking board attending meetings of such  
16 board, or attending a subcommittee meeting thereof authorized by such  
17 board, shall be paid compensation, subsistence allowances, mileage and  
18 other expenses as provided in K.S.A. 75-3223, *and amendments thereto*.  
19 The commissioner ~~shall act as secretary for said board~~ and shall keep a  
20 permanent record of all meetings and proceedings of said board in ~~his~~  
21 *the commissioner's office*.

22 Sec. 38. K.S.A. 1998 Supp. 74-3006 is hereby amended to read as  
23 follows: 74-3006. (a) The board shall meet once each ~~month~~<sup>quarter</sup> ~~quarter~~, on ~~month~~<sup>month</sup> ~~quarter~~, on  
24 dates it agrees upon, ~~and shall meet at other times as the board deems~~  
25 ~~necessary unless no applications which require the board's consideration~~  
26 ~~are pending~~ or when called by the ~~chairperson~~ or any three members of  
27 ~~the board state bank commissioner~~. Six members of the board shall con-  
28 stitute a quorum, and a majority vote of the board shall be necessary to  
29 carry any question. No action of the board shall be taken except in a  
30 formal meeting and after a favorable vote of a majority of the entire board.  
31 ~~The members of the board during business hours shall have free access~~  
32 ~~to all of the records in the office of the commissioner~~. The board shall  
33 act in an advisory capacity in all matters pertaining to ~~the conduct and~~  
34 ~~welfare of the banking department~~ and the administration of the banking  
35 laws of this state ~~except as otherwise specifically provided by law~~.

36 (b) The board, in accordance with K.S.A. 75-4319 and amendments  
37 thereto, may recess for a closed or executive meeting to discuss infor-  
38 mation deemed confidential by virtue of K.S.A. 9-1712 and amendments  
39 thereto.

40 Sec. 39. K.S.A. 1998 Supp. 74-3007 is hereby amended to read as  
41 follows: 74-3007. The savings and loan board created by K.S.A. 74-3113  
42 and amendments thereto is hereby abolished. All of the powers, duties  
43 and functions of the existing savings and loan board are hereby transferred

month

STATE OF KANSAS  
BILL GRAVES  
GOVERNOR



Judi M. Stork  
*Acting Bank Commissioner*

Kevin C. Glendening  
*Assistant Deputy Commissioner*

Sonya L. Allen  
*General Counsel*

Louise A. Monell  
*Administrative Officer*

OFFICE OF THE  
STATE BANK COMMISSIONER

**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE**

February 11, 1999

Senate Financial Institutions & Insurance

Date 2/11/99

Attachment # 6

Mr. Chairman and Members of the Committee:

Thank you for letting me appear today in support of Senate Bill 271. The principal purpose of this bill is to combine the Office of the Consumer Credit Commissioner into the Office of the State Bank Commissioner. Our agency supports this proposal for several reasons.

- First, we think that it will enhance consumer service. Numerous individuals contact our agency daily because they are unsure of the appropriate place to call. A more centralized location for consumers to call regarding lending questions or concerns would be beneficial to all citizens.
- Secondly, both the Consumer Credit department and our agency regulate a portion of the mortgage lending industry. Consumer Credit regulates non-bank second mortgage lenders. We regulate first mortgage lenders and mortgage brokers. Combining the regulation of the mortgage industry just makes sense. One regulator to supervise this industry would be more efficient.
- Third, we regulate a portion of consumer lending via our supervision of banks. The Consumer Credit agency regulates consumer loans from non-bank lenders. Again, one supervisor would be more efficient.
- Finally, there is the issue of staffing. The Office of the State Bank Commissioner could provide services to a Consumer Credit division that are currently not available to them in-house. We have a legal department consisting of two attorneys and a paralegal. Our department also staffs information technology people as well as an individual who handles staff training, marketing and public relations. In addition, we intend to devote one staff member, at least on a part time basis, to assist in formulating a consumer education plan for our agency. By adding the Consumer Credit department to our office, these functions can be shared and we can maximize the utilization of our Kansas government staff.

I have several amendments to offer to this bill today. I would be happy to review those with you now or answer any questions. Thank you again for this opportunity to appear. The Office of the State Bank Commissioner supports this bill and urges your favorable consideration for passage.

## SENATE BILL No. 271

By Committee on Financial Institutions and Insurance

2-9

9 AN ACT transferring the duties of the consumer credit commissioner to  
10 the state bank commissioner; creating a program of consumer credit  
11 affairs within the office of the state bank commissioner; abolishing the  
12 office of the consumer credit commissioner; amending K.S.A. 74-3005  
13 and 75-1308 and K.S.A. 1998 Supp. 74-3004 and 74-3006 and repeal-  
14 ing the existing sections; also repealing K.S.A. 16-403 and 16-609.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. The office of the consumer credit commissioner cre-  
18 ated by K.S.A. 16-403 and amendments thereto is hereby abolished. Ex-  
19 cept as otherwise provided in this act, all of the powers, duties and func-  
20 tions of the existing consumer credit commissioner are hereby transferred  
21 to and conferred and imposed upon the state bank commissioner estab-  
22 lished by K.S.A. 75-1304 and amendments thereto.

23 New Sec. 2. (a) The state bank commissioner shall be the successor  
24 in every way to the powers, duties and functions of the consumer credit  
25 commissioner in which the same were vested prior to the effective date  
26 of this act. Every act performed in the exercise of such powers, duties  
27 and functions by or under the authority of the state bank commissioner  
28 shall be deemed to have the same force and effect as if performed by the  
29 consumer credit commissioner in which such powers, duties and func-  
30 tions were vested prior to the effective date of this act.

31 (b) Whenever the consumer credit commissioner, or words of like  
32 effect, are referred to or designated by a statute, contract or other doc-  
33 ument, such reference or designation shall be deemed to apply to the  
34 state bank commissioner.

35 (c) All orders and directives of the consumer credit commissioner in  
36 existence on the effective date of this act shall continue to be effective  
37 and shall be deemed to be orders and directives of the state bank com-  
38 missioner until revised, amended or nullified pursuant to law.

39 (d) All rules and regulations of the consumer credit commissioner, in  
40 existence on the effective date of this act shall continue to be effective  
41 and shall be deemed to be duly adopted rules and regulations of the state  
42 bank commissioner until revised, amended, revoked or nullified pursuant  
43 to law.

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1 (e) The state bank commissioner shall succeed to whatever right, title  
2 or interest the consumer credit commissioner has acquired in any real  
3 property in this state, and the state bank commissioner shall hold the  
4 same for and in the name of the state of Kansas.

5 (f) On and after the effective date of this act, whenever any statute,  
6 contract or other document concerns the power or authority of the con-  
7 sumer credit commissioner, the state bank commissioner shall succeed  
8 to such power or authority.

9 New Sec. 3. (a) When any conflict arises as to the disposition of any  
10 property, power, duty or function or the unexpended balance of any ap-  
11 propriation as a result of any abolition, transfer, attachment or change  
12 made by or under authority of this act, such conflict shall be resolved by  
13 the governor, whose decision shall be final.

14 (b) The Kansas state bank commissioner shall succeed to all property,  
15 property rights and records which were used for or pertain to the per-  
16 formance of the powers, duties and functions transferred to the bank  
17 commissioner. Any conflict as to the proper disposition of property or  
18 records arising under this section, and resulting from the transfer, at-  
19 tachment or all or part of the powers, duties and functions of the con-  
20 sumer credit commissioner, shall be determined by the governor, whose  
21 decision shall be final.

22 New Sec. 4. (a) No suit, action or other proceeding, judicial or ad-  
23 ministrative, lawfully commenced, or which could have been commenced,  
24 by or against any state agency or program mentioned in this act, or by or  
25 against any officer of the state in such officer's official capacity or in  
26 relation to the discharge of such officer's official duties, shall abate by  
27 reason of this act. The court may allow any such suit, action or other  
28 proceeding to be maintained by or against the successor of any such state  
29 agency or any officer affected.

30 (b) No criminal action commenced or which could have been com-  
31 menced by the state shall abate by the taking effect of this act.

32 New Sec. 5. On the effective date of this act, the balances of all funds  
33 appropriated or reappropriated for the consumer credit commissioner,  
34 are hereby transferred to the state bank commissioner. The director of  
35 accounts and reports shall transfer all moneys in the consumer credit fee  
36 fund to the bank commissioner fee fund. On the effective date of this  
37 act, all liabilities of the consumer credit fee fund existing prior to the  
38 effective date of this act are imposed on the bank commissioner fee fund.  
39 The consumer credit fee fund is hereby abolished.

40 New Sec. 6. On the effective date of this act, officers and employees  
41 who, immediately prior to such date, were engaged in the performance  
42 of powers, duties or functions involved in the administration of any law  
43 administered by the consumer credit commissioner, and who, in the opin-

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1 ion of the state bank commissioner, are necessary to perform the powers,  
2 duties and functions involved in the administration of any law adminis-  
3 tered by the consumer credit commissioner, shall be transferred to, and  
4 shall become officers and employees of the bank commissioner. Any such  
5 officer or employee shall retain all retirement benefits and all rights of  
6 civil service which had accrued to or vested in such officer or employee  
7 prior to the effective date of this act. The service of each such officer and  
8 employee so transferred shall be deemed to have been continuous.

9 New Sec. 7. (a) On the effective date of this act, the balance of all  
10 funds appropriated and reappropriated to the consumer credit commis-  
11 sioner is hereby transferred to the state bank commissioner and shall be  
12 used only for the purpose for which the appropriation was originally  
13 made.

14 (b) On the effective date of this act, the liability for all accrued com-  
15 pensation or salaries of officers and employees who, immediately prior to  
16 such date, were engaged in the performance of powers, duties or func-  
17 tions of any state agency or officer transferred by this act, or which be-  
18 comes a part of the office of the state bank commissioner or the powers,  
19 duties and functions of which are transferred to the bank commissioner,  
20 shall be assumed and paid by the state bank commissioner.

21 ~~New Sec. 8. (a) There is hereby established in the office of the bank  
22 commissioner a program of banking and trust company regulation to en-  
23 force the provisions of chapter 9 of the Kansas Statutes Annotated and  
24 amendments thereto or rules and regulations adopted thereunder. The  
25 program shall be under the supervision of the state bank commissioner,  
26 and the commissioner shall employ a deputy commissioner to administer  
27 the program and appoint such personnel as may be necessary for the  
28 proper administration of the program. The deputy commissioner shall be  
29 in the unclassified service of the Kansas civil service act.~~

See attached amendment to  
K.S.A. 75-3135

30 (b) The deputy commissioner administering the banking regulation  
31 program shall perform all duties and functions delegated by the commis-  
32 sioner regarding:

33 (1) The administration and enforcement of chapter 9 of Kansas Stat-  
34 utes Annotated and amendments thereto; and

35 (2) such other duties as may be assigned by the commissioner.

36 New Sec. 9. (a) There is hereby established in the office of the bank  
37 commissioner a program of consumer credit regulation. The program  
38 shall be under the supervision of the state bank commissioner, and the  
39 commissioner shall employ a deputy commissioner to administer the pro-  
40 gram and appoint such personnel as may be necessary for the proper  
41 administration of the program. The deputy commissioner shall have at  
42 least five years' experience in an executive position in a consumer credit  
43 business regulated by the commissioner or at least five years' experience

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6-5

1 as a state or federal regulator of a consumer credit business regulated by  
2 the commissioner. The deputy commissioner shall be in the unclassified  
3 service of the Kansas civil service act and shall receive an annual salary  
4 fixed by the bank commissioner.

5 (b) The deputy commissioner administering the consumer credit pro-  
6 gram shall perform all duties and functions delegated by the commis-  
7 sioner regarding:

8 (1) The regulation of investment certificates of investment companies  
9 as set forth in article 6 of chapter 16 of the Kansas Statutes Annotated as  
10 amended and supplemented;

11 (2) the administration of the uniform consumer credit code as set  
12 forth in chapter 16a of the Kansas Statutes Annotated as amended and  
13 supplemented;

14 (3) the administration of the fair credit reporting act as set forth in  
15 article 7 of chapter 50 of the Kansas Statutes Annotated as amended and  
16 supplemented;

17 (4) the regulation of credit service organizations as set forth in article  
18 11 of chapter 50 of the Kansas Statutes Annotated as amended and  
19 supplemented;

20 (5) the regulation of mortgage business as set forth in article 22 of  
21 chapter 9 of the Kansas Statutes Annotated as amended and supple-  
22 mented; and

23 ~~(6) such other duties as may be assigned by the commissioner.~~

24 Sec. 10. K.S.A. 1998 Supp. 74-3004 is hereby amended to read as  
25 follows: 74-3004. (a) There is hereby created a state banking board which  
26 shall be composed of nine members. Six members of the board shall be  
27 bankers with not less than five years' actual banking experience in a state  
28 bank in this state *or persons with not less than five years' actual experience*  
29 *in a state chartered savings and loan association in this state, or any*  
30 *combination thereof* and three shall represent the public interest in the  
31 regulation, operation and control of state banks and trust companies. ~~All~~  
32 ~~members shall be selected from the state at large.~~ No nonbanker member  
33 *representing the public interest* shall concurrently serve as an officer or  
34 director in any state or national bank or trust company wherever located.  
35 ~~One of the nine members shall be elected annually~~ *The commissioner*  
36 *shall serve* as chairperson of the board. *The commissioner shall not be a*  
37 *voting member of the board.* The board shall be appointed by the gov-  
38 ernor. Persons appointed to the board shall be subject to confirmation by  
39 the senate as provided in K.S.A. 75-4315b, and amendments thereto.  
40 Except as provided by K.S.A. 1998 Supp. 46-2601, no person appointed  
41 to the board shall exercise any power, duty or function as a member of  
42 the board until confirmed by the senate. No more than five members of  
43 the board shall be from the same political party. Subject to the provisions

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1 of K.S.A. 75-4315c, and amendments thereto, of the six banker or savings  
 2 and loan association members, the governor shall appoint one from each  
 3 Kansas congressional district as presently constituted and the remainder  
 4 from the state at large. Appointment of ~~nonbanker~~ members representing  
 5 the public interest shall be made, with due consideration for achieving  
 6 representation of the various geographic sectors of the state.

[from the state at large

6-9

7 (b) Except as provided by subsection (c), terms of members of the  
 8 board shall be for three years. Each member shall serve until a successor  
 9 is appointed and confirmed. No person shall serve more than two terms  
 10 as a member of the board. In the event of a vacancy on the board, the  
 11 governor shall appoint a new member of the same qualification to fill the  
 12 unexpired term.

13 (c) The terms of members who are serving on the board on the ef-  
 14 fective date of this act shall expire on March 15, of the year in which such  
 15 member's term would have expired under the provisions of this section  
 16 prior to amendment by this act. Thereafter, members shall be appointed  
 17 for terms of three years and until their successors are appointed and  
 18 confirmed.

19 New Sec. 11. (a) There is hereby created a state consumer credit  
 20 advisory board which shall be composed of nine members. Six members  
 21 of the board shall be persons with not less than five years' actual experi-  
 22 ence in the operation of a consumer loan or related company or regulation  
 23 of the consumer loan industry in this state, and three shall represent the  
 24 public interest in the regulation, operation and control of consumer loan  
 25 and related companies. ~~All members shall be selected from the state at~~  
 26 ~~large.~~ No member representing the public interest shall concurrently  
 27 serve as an officer or director in any consumer loan or related company  
 28 wherever located. The commissioner shall serve as chairperson of the  
 29 board. The chairperson shall be a nonvoting member of the board. The  
 30 board shall be appointed by the governor. Persons appointed to the board  
 31 shall be subject to confirmation by the senate as provided in K.S.A. 75-  
 32 4315b, and amendments thereto. Except as provided by K.S.A. 1998  
 33 Supp. 46-2601, no person appointed to the board shall exercise any  
 34 power, duty or function as a member of the board until confirmed by the  
 35 senate. No more than five members of the board shall be from the same  
 36 political party. Subject to the provisions of K.S.A. 75-4315c, and amend-  
 37 ments thereto, of the six persons representing the consumer credit in-  
 38 dustry, the governor shall appoint one from each Kansas congressional  
 39 district as presently constituted and the remainder from the state at large.  
 40 Appointment of members representing the public interest shall be made  
 41 with due consideration for achieving representation of the various por-  
 42 tions of the consumer credit industry regulated by the commissioner.

[from the state at large

6-9

43 (b) Except as provided by subsection (c), terms of members of the

6-7

1 board shall be for three years. Each member shall serve until a successor  
2 is appointed and confirmed. No person shall serve more than two terms  
3 as a member of the board. In the event of a vacancy on the board, the  
4 governor shall appoint a new member of the same qualification to fill the  
5 unexpired term.

6 (c) (1) The governor shall appoint one member representing the  
7 public and two members representing the consumer credit industry for  
8 a term which expires on March 15 of the calendar year which starts after  
9 the effective date of this act.

10 (2) The governor shall appoint one member representing the public  
11 and two members representing the consumer credit industry for a term  
12 which expires on March 15 of the second calendar year which starts after  
13 the effective date of this act.

14 (3) The governor shall appoint one member representing the public  
15 and two members representing the consumer credit industry for a term  
16 which expires on March 15 of the third calendar year which starts after  
17 the effective date of this act.

18 (4) Thereafter, members shall be appointed for terms of three years  
19 and until their successors are appointed and confirmed.

20 Sec. 12. K.S.A. 74-3005 is hereby amended to read as follows: 74-  
21 3005. Members of the state banking board attending meetings of such  
22 board, or attending a subcommittee meeting thereof authorized by such  
23 board, shall be paid compensation, subsistence allowances, mileage and  
24 other expenses as provided in K.S.A. 75-3223 and amendments thereto.  
25 The commissioner shall act as secretary for said board and shall keep a  
26 permanent record of all meetings and proceedings of said such board in  
27 his the commissioner's office.

28 New Sec. 13. Members of the consumer credit advisory board at-  
29 tending meetings of such board, or attending a subcommittee meeting  
30 thereof authorized by such board, shall be paid compensation, subsistence  
31 allowances, mileage and other expenses as provided in K.S.A. 75-3223  
32 and amendments thereto. The commissioner shall keep a permanent rec-  
33 ord of all meetings and proceedings of such board in the commissioner's  
34 office.

35 Sec. 14. K.S.A. 1998 Supp. 74-3006 is hereby amended to read as  
36 follows: 74-3006. (a) The state banking board shall meet once each month  
37 quarter, on dates it agrees upon, and shall meet at other times as the  
38 board deems necessary or when called by the chairperson or any three  
39 members of the board state bank commissioner. Six members of the board  
40 shall constitute a quorum, and a majority vote of the board shall be nec-  
41 essary to carry any question. No action of the board shall be taken except  
42 in a formal meeting and after a favorable vote of a majority of the entire  
43 board. The members of the board during business hours shall have free

[month  
unless no applications which require  
the board's consideration are pending

6-7



1 ~~access to all of the records in the office of the commissioner.~~ The board  
2 shall act in an advisory capacity in all matters pertaining to ~~the conduct~~  
3 ~~and welfare of the banking department and the administration of the~~  
4 ~~banking laws of this state except as otherwise specifically provided by law.~~

5 (b) The board, in accordance with K.S.A. 75-4319 and amendments  
6 thereto, may recess for a closed or executive meeting to discuss infor-  
7 mation deemed confidential by virtue of K.S.A. 9-1712 and amendments  
8 thereto.

9 New Sec. 15. (a) The consumer credit advisory board shall meet  
10 once each quarter on dates it agrees upon or when called by the state  
11 bank commissioner. Six members of the board shall constitute a quorum,  
12 and a majority vote of the board shall be necessary to carry any question.  
13 No action of the board shall be taken except in a formal meeting and  
14 after a favorable vote of a majority of the entire board. The board shall  
15 act in an advisory capacity in all matters pertaining to the administration  
16 of the laws of this state pertaining to consumer credit.

17 (b) The board, in accordance with K.S.A. 75-4319 and amendments  
18 thereto, may recess for a closed or executive meeting to discuss infor-  
19 mation deemed confidential.

20 Sec. 16. K.S.A. 75-1308 is hereby amended to read as follows: 75-  
21 1308. The commissioner shall keep a record of all fees collected by ~~him~~  
22 ~~or her~~ *the commissioner*, together with a record of all expenses incurred  
23 in making the examinations of all banks and trust companies. The bank  
24 commissioner shall remit all moneys received by or for ~~him or her~~ *the*  
25 *commissioner* from such fees to the state treasurer at least monthly. Upon  
26 receipt of each such remittance, the state treasurer shall deposit the entire  
27 amount thereof in the state treasury. Twenty percent (20%) of each such  
28 deposit shall be credited to the state general fund and the balance shall  
29 be credited to the bank commissioner fee fund. All expenditures from  
30 the bank commissioner fee fund shall be made in accordance with ap-  
31 propriation acts upon warrants of the director of accounts and reports  
32 issued pursuant to vouchers approved by the bank commissioner or by a  
33 person or persons designated by ~~him or her~~ *the commissioner*.

34 Sec. 17. K.S.A. 16-403, 16-609, 74-3005 and 75-1308 and K.S.A.  
35 1998 Supp. 74-3004 and 74-3006 are hereby repealed.

36 Sec. 18. This act shall take effect and be in force from and after its  
37 publication in the statute book.

**Article 31.-SALARIES AND ASSISTANTS; MISCELLANEOUS PROVISIONS**

**75-3135. Salary of bank commissioner; appointment of deputy commissioner; assistants and employees.** The bank commissioner shall receive an annual salary to be fixed by the governor with the approval of the state finance council. The bank commissioner is hereby authorized to appoint a two deputy commissioner commissioners who shall be in the unclassified service under the Kansas civil service act and who shall receive an annual salary fixed by the bank commissioner. The deputy commissioner of the banking division shall supervise all banks and trust companies as directed by the commissioner and shall perform other such duties as may be required by the commissioner. The deputy commissioner of the consumer and mortgage lending division shall supervise all consumer and mortgage lending functions as directed by the commissioner and shall perform other duties as may be required by the commissioner. If the office of the commissioner is vacant or if the commissioner is absent or unable to act, the deputy commissioner of the banking division shall be the acting commissioner. The deputy commissioner of the banking division shall have at least five years' experience as a state bank officer or five years' experience as a state or federal bank regulator deposit insurance corporation bank examiner. The deputy commissioner of consumer and mortgage lending shall have at least five years experience in consumer or mortgage lending, five years experience as a state or federal regulator or related experience. The bank commissioner is also authorized to appoint or contract for, in accordance with the civil service law, such special assistants and other employees as are necessary to properly discharge the duties of the office. (L. 1987, ch. 54, § 14; May 7.)



# KANSAS

OFFICE OF CONSUMER CREDIT COMMISSIONER

Bill Graves  
Governor

David R. Brant  
Acting  
Commissioner

**TESTIMONY REGARDING SENATE BILL No. 271**  
**Proposed Merger of Consumer Credit with the Bank Commissioner**  
Financial Institutions and Insurance Committee      Kansas Senate

***"CONSUMER PROTECTION THROUGH REASONABLE REGULATION"***

Mr. Chairman and members of the committee, thank you for this opportunity to testify regarding Senate Bill No. 271.

Based on my experience as the Acting Commissioner, I have advised this committee, the interim committee, and the Governor that the staff should be expanded and that the regulatory powers should be strengthened to ensure that the state is doing its best in achieving effective consumer protection in these challenging times.

I have requested and am in the process of proposing a number of substantive amendments to the Consumer Credit Code, the addition of examiners and a staff attorney, and that the Commissioner's job be full-time and better compensated. In addition, the agency's efforts in consumer education are critical and must be enhanced and expanded.

It appears there are two alternatives: 1) add staff and funding to the existing agency; or 2) merge the agency with a compatible partner agency. Attached for your consideration is an outline of four reasons to consider merging Consumer Credit with the Bank Commissioner. The proposed merger is not expected to save any money in the short term but will hopefully enhance consumer protection, achieve coordination in regulation, and efficiently utilize the staff and resources of both agencies.

Also attached are a number of suggested amendments to Senate Bill No. 271. Thank you for your consideration.

Senate Financial Institutions & Insurance

Date *2/11/99*

Attachment # *7*

# PROPOSED MERGER

## CONSUMER CREDIT

- *Kansas is one of only five states with Consumer Credit as a separate agency.*
- *Focus is on unfair and abusive non-bank lending practices.*

## BANK COMMISSIONER

### Reasons to consider merger:

- 1) Equalize consumer protection between state regulators

Consumers who borrow from non-bank lenders

Consumers who borrow from banks and S&Ls

- 2) Coordination in regulating the mortgage industry

Consumer Credit licenses non-bank mortgage lenders

Banking registers mortgage brokers

Consumer Credit regulates 2<sup>nd</sup> mortgage non-bank loans

Banking regulates 1<sup>st</sup> mortgages

- 3) Achieve uniformity in the interpretation and enforcement of the Uniform Consumer Credit Code ("UCCC")

Consumer Credit enforces UCCC for non-bank lenders

Banking enforces UCCC for bank lenders

- 4) Share and maximize staff utilization

#### Consumer Credit

Needs full-time Administrator  
 0 Staff Attorneys  
 0 Computer Techs  
 0 Consumer Education  
 4 Examiners  
 1 Administrative Staff (personnel, purchasing, budget)

#### Banking

2 Staff Attorneys  
 2 Computer Techs  
 1 Marketing/Public Information  
 50 Examiners  
 2 Administrative Staff (personnel, purchasing, budget)

**SENATE BILL No. 271**

By Committee on Financial Institutions and Insurance

2-9

9 AN ACT transferring the duties of the consumer credit commissioner to  
10 the state bank commissioner; creating a program of consumer credit  
11 affairs within the office of the state bank commissioner; abolishing the  
12 office of the consumer credit commissioner; amending K.S.A. 74-3005  
13 and 75-1308 and K.S.A. 1998 Supp. 74-3004 and 74-3006 and repeal-  
14 ing the existing sections; also repealing K.S.A. 16-403 and 16-609.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. The office of the consumer credit commissioner cre-  
18 ated by K.S.A. 16-403 and amendments thereto is hereby abolished. Ex-  
19 cept as otherwise provided in this act, all of the powers, duties and func-  
20 tions of the existing consumer credit commissioner are hereby transferred  
21 to and conferred and imposed upon the state bank commissioner estab-  
22 lished by K.S.A. 75-1304 and amendments thereto.

23 New Sec. 2. (a) The state bank commissioner shall be the successor  
24 in every way to the powers, duties and functions of the consumer credit  
25 commissioner in which the same were vested prior to the effective date  
26 of this act. Every act performed in the exercise of such powers, duties  
27 and functions by or under the authority of the state bank commissioner  
28 shall be deemed to have the same force and effect as if performed by the  
29 consumer credit commissioner in which such powers, duties and func-  
30 tions were vested prior to the effective date of this act.

31 (b) Whenever the consumer credit commissioner, or words of like  
32 effect, are referred to or designated by a statute, contract or other doc-  
33 ument, such reference or designation shall be deemed to apply to the  
34 state bank commissioner.

35 (c) All orders and directives of the consumer credit commissioner in  
36 existence on the effective date of this act shall continue to be effective  
37 and shall be deemed to be orders and directives of the state bank com-  
38 missioner until revised, amended or nullified pursuant to law.

39 (d) All rules and regulations of the consumer credit commissioner, in  
40 existence on the effective date of this act shall continue to be effective  
41 and shall be deemed to be duly adopted rules and regulations of the state  
42 bank commissioner until revised, amended, revoked or nullified pursuant  
43 to law.

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4-6

1 (e) The state bank commissioner shall succeed to whatever right, title  
2 or interest the consumer credit commissioner has acquired in any real  
3 property in this state, and the state bank commissioner shall hold the  
4 same for and in the name of the state of Kansas.

5 (f) On and after the effective date of this act, whenever any statute,  
6 contract or other document concerns the power or authority of the con-  
7 sumer credit commissioner, the state bank commissioner shall succeed  
8 to such power or authority.

9 New Sec. 3. (a) When any conflict arises as to the disposition of any  
10 property, power, duty or function or the unexpended balance of any ap-  
11 propriation as a result of any abolition, transfer, attachment or change  
12 made by or under authority of this act, such conflict shall be resolved by  
13 the governor, whose decision shall be final.

14 (b) The Kansas state bank commissioner shall succeed to all property,  
15 property rights and records which were used for or pertain to the per-  
16 formance of the powers, duties and functions transferred to the bank  
17 commissioner. Any conflict as to the proper disposition of property or  
18 records arising under this section, and resulting from the transfer, at-  
19 tachment or all or part of the powers, duties and functions of the con-  
20 sumer credit commissioner, shall be determined by the governor, whose  
21 decision shall be final.

22 New Sec. 4. (a) No suit, action or other proceeding, judicial or ad-  
23 ministrative, lawfully commenced, or which could have been commenced,  
24 by or against any state agency or program mentioned in this act, or by or  
25 against any officer of the state in such officer's official capacity or in  
26 relation to the discharge of such officer's official duties, shall abate by  
27 reason of this act. The court may allow any such suit, action or other  
28 proceeding to be maintained by or against the successor of any such state  
29 agency or any officer affected.

30 (b) No criminal action commenced or which could have been com-  
31 menced by the state shall abate by the taking effect of this act.

32 ~~New Sec. 5. On the effective date of this act, the balances of all funds  
33 appropriated or reappropriated for the consumer credit commissioner,  
34 are hereby transferred to the state bank commissioner. The director of  
35 accounts and reports shall transfer all moneys in the consumer credit fee  
36 fund to the bank commissioner fee fund. On the effective date of this  
37 act, all liabilities of the consumer credit fee fund existing prior to the  
38 effective date of this act are imposed on the bank commissioner fee fund.  
39 The consumer credit fee fund is hereby abolished.~~

40 New Sec. 6. On the effective date of this act, officers and employees  
41 who, immediately prior to such date, were engaged in the performance  
42 of powers, duties or functions involved in the administration of any law  
43 administered by the consumer credit commissioner, and who, in the opin-

Replace "New Sec. 5" on page 2, lines 32 through 39 with:

New Sec. 5. (a) On the effective date of this act, the  
balances of all funds appropriated or reappropriated for the  
consumer credit commissioner are hereby transferred to the  
state bank commissioner and shall be used only for the  
purposes for which the appropriations were originally made.  
The director of accounts and reports shall establish a new  
consumer credit regulation fee fund within the chart of  
accounts for the state bank commissioner and shall transfer  
all moneys in the existing consumer credit fee fund being  
abolished by this act to such consumer credit regulation fee  
fund of the state bank commissioner.

(b) On the effective date of this act, all liabilities of  
the consumer credit fee fund existing before the effective  
date of this act shall be transferred to the new consumer  
credit regulation fee fund to be established within the chart  
of accounts for the state bank commissioner as provided by  
subsection (a) of this section. Such liabilities shall be  
paid by the state bank commissioner from such consumer credit  
regulation fee fund of the state bank commissioner. Upon  
transfer of the balances and liabilities of the existing  
consumer credit fee fund to the new consumer credit regulation  
fee fund within the chart of accounts of the state bank  
commissioner as provided by this act, the existing consumer  
credit fee fund shall be abolished.

NOTE: K.S.A. 16a-2-302(c) will also need to  
be amended or deleted since it relates to the  
consumer credit fee fund.

4-6



7-5

1 ion of the state bank commissioner, are necessary to perform the powers,  
2 duties and functions involved in the administration of any law adminis-  
3 tered by the consumer credit commissioner, shall be transferred to, and  
4 shall become officers and employees of the bank commissioner. Any such  
5 officer or employee shall retain all retirement benefits and all rights of  
6 civil service which had accrued to or vested in such officer or employee  
7 prior to the effective date of this act. The service of each such officer and  
8 employee so transferred shall be deemed to have been continuous.

9 ~~New Sec. 7. (a) On the effective date of this act, the balance of all  
10 funds appropriated and reappropriated to the consumer credit commis-  
11 sioner is hereby transferred to the state bank commissioner and shall be  
12 used only for the purpose for which the appropriation was originally  
13 made.~~

14 ~~(b) On the effective date of this act, the liability for all accrued com-  
15 pensation or salaries of officers and employees who, immediately prior to  
16 such date, were engaged in the performance of powers, duties or func-  
17 tions of any state agency or officer transferred by this act, or which be-  
18 comes a part of the office of the state bank commissioner or the powers,  
19 duties and functions of which are transferred to the bank commissioner,  
20 shall be assumed and paid by the state bank commissioner.~~

21 New Sec. 8. (a) There is hereby established in the office of the bank  
22 commissioner a program of banking and trust company regulation to en-  
23 force the provisions of chapter 9 of the Kansas Statutes Annotated and  
24 amendments thereto or rules and regulations adopted thereunder. The  
25 program shall be under the supervision of the state bank commissioner,  
26 and the commissioner shall employ a deputy commissioner to administer  
27 the program and appoint such personnel as may be necessary for the  
28 proper administration of the program. The deputy commissioner shall be  
29 in the unclassified service of the Kansas civil service act.

30 (b) The deputy commissioner administering the banking regulation  
31 program shall perform all duties and functions delegated by the commis-  
32 sioner regarding:

33 (1) The administration and enforcement of chapter 9 of Kansas Stat-  
34 utes Annotated and amendments thereto; and

35 (2) such other duties as may be assigned by the commissioner.

36 New Sec. 9. (a) There is hereby established in the office of the bank  
37 commissioner a ~~program~~ of consumer credit regulation. The ~~program~~  
38 shall be under the supervision of the state bank commissioner, and the  
39 commissioner shall employ a deputy commissioner to administer the ~~pro-~~  
40 ~~gram~~ and appoint such personnel as may be necessary ~~for the proper~~  
41 ~~administration of the program.~~ The deputy commissioner shall have at  
42 least five years ~~experience in an executive position in a consumer credit~~  
43 ~~business regulated by the commissioner or at least five years' experience~~

NOTE: New Sec. 7 could be deleted if the proposed amendment and re-wording of New Sec. 5 is adopted as outlined above.

division

in consumer lending, regulatory, legal or related experience

7-5

17-6

1 ~~as a state or federal regulator of a consumer credit business regulated by~~  
2 ~~the commissioner.~~ The deputy commissioner shall be in the unclassified  
3 service of the Kansas civil service act and shall receive an annual salary  
4 fixed by the bank commissioner.

5 (b) The deputy commissioner administering the consumer credit ~~pro-~~  
6 ~~gram~~ shall perform all duties and functions delegated by the commis-  
7 sioner regarding:

8 (1) The regulation of investment certificates of investment companies  
9 as set forth in article 6 of chapter 16 of the Kansas Statutes Annotated as  
10 amended and supplemented;

11 (2) the administration of the uniform consumer credit code as set  
12 forth in chapter 16a of the Kansas Statutes Annotated as amended and  
13 supplemented;

14 (3) the administration of the fair credit reporting act as set forth in  
15 article 7 of chapter 50 of the Kansas Statutes Annotated as amended and  
16 supplemented;

17 (4) the regulation of credit service organizations as set forth in article  
18 11 of chapter 50 of the Kansas Statutes Annotated as amended and  
19 supplemented;

20 (5) the regulation of mortgage business as set forth in article 22 of  
21 chapter 9 of the Kansas Statutes Annotated as amended and supple-  
22 mented; and

23 (6) such other duties as may be assigned by the commissioner.

24 Sec. 10. K.S.A. 1998 Supp. 74-3004 is hereby amended to read as  
25 follows: 74-3004. (a) There is hereby created a state banking board which  
26 shall be composed of nine members. Six members of the board shall be  
27 bankers with not less than five years' actual banking experience in a state  
28 bank in this state *or persons with not less than five years' actual experience*  
29 *in a state chartered savings and loan association in this state, or any*  
30 *combination thereof* and three shall represent the public interest in the  
31 regulation, operation and control of state banks and trust companies. All  
32 members shall be selected from the state at large. No ~~nonbanker~~ member  
33 *representing the public interest* shall concurrently serve as an officer or  
34 director in any state or national bank or trust company wherever located.  
35 ~~One of the nine members shall be elected annually~~ *The commissioner*  
36 *shall serve* as chairperson of the board. ~~The commissioner shall not be a~~  
37 ~~voting member of the board.~~ The board shall be appointed by the gov-  
38 ernor. Persons appointed to the board shall be subject to confirmation by  
39 the senate as provided in K.S.A. 75-4315b, and amendments thereto.  
40 Except as provided by K.S.A. 1998 Supp. 46-2601, no person appointed  
41 to the board shall exercise any power, duty or function as a member of  
42 the board until confirmed by the senate. No more than five members of  
43 the board shall be from the same political party. Subject to the provisions

division

NOTE: The definition of Administrator  
in K.S.A. 16a-1-301(2) should be amended  
to refer to the Deputy Commissioner.

7-6



7-7

1 of K.S.A. 75-4315c, and amendments thereto, of the six banker *or savings*  
2 *and loan association* members, the governor shall appoint one from each  
3 Kansas congressional district as presently constituted and the remainder  
4 from the state at large. Appointment of ~~nonbanker~~ members *representing*  
5 *the public interest* shall be made with due consideration for achieving  
6 representation of the various geographic sectors of the state.

7 (b) Except as provided by subsection (c), terms of members of the  
8 board shall be for three years. Each member shall serve until a successor  
9 is appointed and confirmed. No person shall serve more than two terms  
10 as a member of the board. In the event of a vacancy on the board, the  
11 governor shall appoint a new member of the same qualification to fill the  
12 unexpired term.

13 (c) The terms of members who are serving on the board on the ef-  
14 fective date of this act shall expire on March 15, of the year in which such  
15 member's term would have expired under the provisions of this section  
16 prior to amendment by this act. Thereafter, members shall be appointed  
17 for terms of three years and until their successors are appointed and  
18 confirmed.

19 New Sec. 11. (a) There is hereby created a state consumer credit  
20 advisory board which shall be composed of nine members. Six members  
21 of the board shall be persons with ~~not less than five years' actual experi-~~  
22 ~~ence in the operation of a consumer loan or related company or regulation~~  
23 ~~of the consumer loan industry in this state~~, and three shall represent the  
24 public interest in the regulation, operation and control of consumer loan  
25 and related companies. ~~All members shall be selected from the state at~~  
26 ~~large~~. No member representing the public interest shall concurrently  
27 serve as an officer or director in any consumer loan or related company  
28 wherever located. ~~The commissioner shall serve as chairperson of the~~  
29 ~~board. The chairperson shall be a nonvoting member of the board. The~~  
30 ~~board shall be appointed by the governor. Persons appointed to the board~~  
31 ~~shall be subject to confirmation by the senate as provided in K.S.A. 75-~~  
32 ~~4315b, and amendments thereto. Except as provided by K.S.A. 1008-~~  
33 ~~Supp. 46-2601, no person appointed to the board shall exercise any~~  
34 ~~power, duty or function as a member of the board until confirmed by the~~  
35 ~~senate. No more than five members of the board shall be from the same~~  
36 ~~political party. Subject to the provisions of K.S.A. 75-4315c, and amend-~~  
37 ~~ments thereto, of the six persons representing the consumer credit in-~~  
38 ~~dustry, the governor shall appoint one from each Kansas congressional~~  
39 ~~district as presently constituted and the remainder from the state at large.~~  
40 Appointment of members representing the *public interest* shall be made  
41 with due consideration for achieving representation of the various *por-*  
42 *tions* of the consumer credit industry regulated by the commissioner.

Consumer Credit Advisory Board

1st choice: delete sections 11, 13, and 15

2nd choice: amend as follows

at least five years in consumer lending,  
legal, or related experience

industry

entities

6-6

7-8

1 board shall be for three years. Each member shall serve until a successor  
2 is appointed and confirmed. No person shall serve more than two terms  
3 as a member of the board. In the event of a vacancy on the board, the  
4 governor shall appoint a new member of the same qualification to fill the  
5 unexpired term.

6 (c) (1) The governor shall appoint one member representing the  
7 public and two members representing the consumer credit industry for  
8 a term which expires on March 15 of the calendar year which starts after  
9 the effective date of this act.

10 (2) The governor shall appoint one member representing the public  
11 and two members representing the consumer credit industry for a term  
12 which expires on March 15 of the second calendar year which starts after  
13 the effective date of this act.

14 (3) The governor shall appoint one member representing the public  
15 and two members representing the consumer credit industry for a term  
16 which expires on March 15 of the third calendar year which starts after  
17 the effective date of this act.

18 (4) Thereafter, members shall be appointed for terms of three years  
19 and until their successors are appointed and confirmed.

20 Sec. 12. K.S.A. 74-3005 is hereby amended to read as follows: 74-  
21 3005. Members of the state banking board attending meetings of such  
22 board, or attending a subcommittee meeting thereof authorized by such  
23 board, shall be paid compensation, subsistence allowances, mileage and  
24 other expenses as provided in K.S.A. 75-3223 *and amendments thereto*.  
25 The commissioner ~~shall act as secretary for said board and~~ shall keep a  
26 permanent record of all meetings and proceedings of ~~said such~~ board in  
27 ~~his~~ *the commissioner's* office.

28 New Sec. 13. Members of the consumer credit advisory board at-  
29 tending meetings of such board, or attending a subcommittee meeting  
30 thereof authorized by such board, shall be paid compensation, subsistence  
31 allowances, mileage and other expenses as provided in K.S.A. 75-3223  
32 and amendments thereto. The commissioner shall keep a permanent rec-  
33 ord of all meetings and proceedings of such board in the commissioner's  
34 office.

35 Sec. 14. K.S.A. 1998 Supp. 74-3006 is hereby amended to read as  
36 follows: 74-3006. (a) The *state banking* board shall meet once each ~~month~~  
37 *quarter*, on dates it agrees upon, ~~and shall meet at other times as the~~  
38 ~~board deems necessary~~ or when called by the ~~chairperson or any three~~  
39 ~~members of the board~~ *state bank commissioner*. Six members of the board  
40 shall constitute a quorum, and a majority vote of the board shall be nec-  
41 essary to carry any question. No action of the board shall be taken except  
42 in a formal meeting and after a favorable vote of a majority of the entire  
43 board. ~~The members of the board during business hours shall have free~~

see note on page 5

8-8



6-7

1 access to all of the records in the office of the commissioner. The board  
2 shall act in an advisory capacity in all matters pertaining to the conduct  
3 and welfare of the banking department and the administration of the  
4 banking laws of this state except as otherwise specifically provided by law.

5 (b) The board, in accordance with K.S.A. 75-4319 and amendments  
6 thereto, may recess for a closed or executive meeting to discuss infor-  
7 mation deemed confidential by virtue of K.S.A. 9-1712 and amendments  
8 thereto.

9 New Sec. 15. (a) The consumer credit advisory board shall meet  
10 once each quarter ~~on dates it agrees upon~~ or when called by the state  
11 bank commissioner. ~~Six members of the board shall constitute a quorum,  
12 and a majority vote of the board shall be necessary to carry any question.  
13 No action of the board shall be taken except in a formal meeting and  
14 after a favorable vote of a majority of the entire board.~~ The board shall  
15 act in an advisory capacity in all matters pertaining to the administration  
16 of the laws of this state pertaining to consumer credit.

deputy commissioner or

17 ~~(b) The board, in accordance with K.S.A. 75-4319 and amendments  
18 thereto, may recess for a closed or executive meeting to discuss infor-  
19 mation deemed confidential.~~

Replace last section, "Sec. 16" of bill as follows:

20 Sec. 16. K.S.A. 75-1308 is hereby amended to read as follows: 75-  
21 1308. The commissioner shall keep a record of all fees collected by ~~him~~  
22 ~~or her~~ the commissioner, together with a record of all expenses incurred  
23 in making the examinations of all banks and trust companies. The bank  
24 commissioner shall remit all moneys received by or for ~~him or her~~ the  
25 commissioner from such fees to the state treasurer at least monthly. Upon  
26 receipt of each such remittance, the state treasurer shall deposit the entire  
27 amount thereof in the state treasury. Twenty percent (20%) of each such  
28 deposit shall be credited to the state general fund and the balance shall  
29 be credited to the bank commissioner fee fund. All expenditures from  
30 the bank commissioner fee fund shall be made in accordance with ap-  
31 propriation acts upon warrants of the director of accounts and reports  
32 issued pursuant to vouchers approved by the bank commissioner or by a  
33 person or persons designated by ~~him or her~~ the commissioner.

Sec. ???. K.S.A. 75-1308 is hereby amended to read as follows: 75-1308. The commissioner shall keep a record of all fees collected by the commissioner, together with a record of all expenses incurred in the administration of the programs for banking and trust company regulation and consumer credit regulation. The bank commissioner shall remit all fees collected to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount to the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund. The balance of each such deposit derived from fees collected for banking and trust company regulation shall be credited to the bank commissioner fee fund and the balance of each such deposit derived from fees collected for consumer credit regulation shall be credited to the consumer credit regulation fee fund. All expenditures from the bank commissioner fee fund and the consumer credit regulation fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the bank commissioner or by a person or persons designated by the commissioner.

34 Sec. 17. K.S.A. 16-403, 16-609, 74-3005 and 75-1308 and K.S.A.  
35 1998 Supp. 74-3004 and 74-3006 are hereby repealed.

36 Sec. 18. This act shall take effect and be in force from and after its  
37 publication in the statute book.

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