

Approved: February 9, 2000  
Date

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 2, 2000 in Room 527-S of the Capitol.

All members were present except: Representative Carlos Mayans - Excused

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

Conferees appearing before the committee: Bill Sneed - Conseco Financial Services  
Sonya Allen, Kansas Bankers Association  
Kevin Glendening, Office of State Bank  
Commissioner  
George Barbee, Kansas Association of Financial  
Services

Others attending: See Attached

Chairman Cox presented the committee minutes for the January 19, 2000 meeting to the committee.

Representative Helgerson moved that the minutes be approved as written. Representative Dreher seconded the motion. The motion carried.

**Chuck Stones**, Kansas Bankers Association, presented written material pertaining to credit insurance consumer satisfaction that he had promised to the committee on January 26, 2000. (**Attachment 1**)

Chairman Cox asked **Dr. Wolff** to give the committee a brief rundown of **HB 2647 - Insurance; prohibiting financing of credit insurance in home loans** as a review. Dr Wolff said the crux of the bill is item (b) lines 21 through 25. It is unlawful for any creditor in a consumer home loan to finance, directly or indirectly, consumer credit consumer premiums in that loan.

Representative Grant made a motion to not pass the bill out . Representative Dreher seconded the motion. The motion carried.

Chairman Cox asked for introduction of bills. There were none.

Chairman Cox Opened the hearing on **HB 2675 - UCCC, manufactured homes**

**Bill Sneed**, Conseco Financial Services, said their bottom line intent on **HB 2675** is to allow pre-paid finance charges to be applicable to manufactured housing in the same respect as such pre-paid financing charges are available on traditional homes. The bill deals with two sections of the Uniform Commercial Credit Code (UCCC), one commonly referred to as 201 the other as 401. Traditionally, 401 deals with loans while 201 deals with credit sales. Manufactured homes sales transactions can involve either a loan or a credit sale. Either statute can apply at one time or another, depending on the amount of money being financed. There has been difficulty in the UCCC's application to manufactured homes, since they are so unique. Prior to the recodification, it was a gray area as to which section applied to manufactured homes. Most companies believed that they could apply the points application to the financing. With recodification, it became clear that the way 16a-1-401 is drafted, points would not be applicable to manufactured homes. Since they weren't in (a), (b) would apply. Most people want to know what their monthly payments will be, and try to keep it as low as possible. By being able to buy down points, you are able to reduce that monthly payment. Mr. Sneed said they started out with a very simple amendment which ended up being more detailed than originally planned. So, he has an amendment to the originally proposed bill. He has since learned that there may still

CONTINUATION SHEET

FINANCIAL INSTITUTION, Room 527-S Statehouse at 3:30 p.m. on February 2, 2000.

be some problems with the amendment. He asked that the bill not be worked today so he could meet with the proper people and work out potential problems. (**Attachment 2**)

Chairman Cox discontinued the hearing on **HB 2675** until February 9.

Chairman Cox opened the hearing on **HB 2676 - Board of directors, banks and trust companies**

**Sonya Allen**, General Counsel in the Office of the State Bank Commissioner, testified in support of **HB 2676**. It amends K.S.A. 9-1114 which currently states that a bank or trust company has to hold its annual meeting during the first 120 days of each calendar. Since April of 1996, there has been a Special Order in effect which allows state chartered banks and trust companies to hold their annual meetings on any date specified in their bylaws. The Special Order was issued because affiliated bank groups wanted to have the operational flexibility of holding annual meetings of all sister banks on the same day. She asked that the statute be changed so the Special Order would no longer be necessary. (**Attachment 3**)

Chairman Cox closed the hearing on **HB 2676 - banks and trust companies**.

Representative Sharp moved that the bill be passed out favorably and placed on the consent calendar. Representative McCreary seconded the motion. The motion carried.

The Chairman opened the hearing on **HB 2691 - UCCC, regulation of rates**

**Proponents:**

**Kevin Glendening**, Office of the State Bank Commissioner, explained the propose of **HB 2691**. On page 2, line 3 the words "the greater of" are being struck. The intent was to allow the lender to use either county tax assessor records or a certified appraisal. The bill clarifies this. Page 2, line 36 reflects the proper rate of 61 to 90 days. This matches the intended benchmark figure used in K.S.A. 16-207 usury rate calculation. Page 8, line 23, clarifies that license application fees for supervised lenders are nonrefundable and that the licenses are nonassignable. Page 10, beginning with line 19, addresses the "blended rate" concept on non real estate closed-end consumer loans. It clarifies that the blended rate concept continues to be valid. Mr. Glendening urged the committee to adopt these changes and to include an amendment stating it would become effective upon publication in the Kansas Register. He also asked them to proceed cautiously this year when considering other possible amendments to the Code. Generally, more time is needed to see how well last years' changes are working. (**Attachment 4**)

**George Barbee**, Kansas Association of Financial Services, testified in favor of all the changes in **HB 2691** including the amendment to make it in the Kansas Register. The changes simply clarify the intent of the section. (**Attachment 5**)

**Bruce Kinzie** mentioned that on page 4 line 14 "16a-3-310" should read "16a-3-308a".

Representative Minor made a motion to adopt these two amendments. Representative Grant seconded the motion. The motion carried.

Representative Dreher made a motion to pass the bill as amended. Representative Grant seconded the motion. The motion carried.

The meeting adjourned at 4:06 p.m.

The next meeting is scheduled for February 9, 2000.



# Research

## Consumer Attitudes on Credit Insurance

1970's

- 63.8% Percentage of all borrowers who purchased credit insurance on their most recent loan.
- 6.0% Percentage of all borrowers who were unaware they had credit insurance on their most recent loan.
- 86.7% Percentage of all borrowers who were covered by credit insurance and thought buying the product was a "good" idea.
- 90% Percentage of all borrowers who indicated they would be inclined to purchase credit insurance again.
- 80.3% Percentage of all borrowers who expressed the belief that their decision regarding the purchase of credit insurance had no affect on the creditor's decision to grant the loan.

1980's

- 64.7%
- 2.2%
- 89.9%
- 94%
- 94.2%

- The most frequently cited reason (mentioned by 83% of respondents) for purchasing the product was that credit insurance serves a "valuable purpose".
- The costs of credit insurance were found to be "reasonable" in these two surveys:

### Montgomery Ward's Survey

4% High  
77% Reasonable  
16% Low

### Federal Reserve Survey

18% High  
52% Reasonable  
30% Low

SOURCES Federal Reserve Board Survey Compiled by Dr. Joel Huber, Duke University (1977)

Consumer Experience with Credit Insurance: Some New Evidence. Compiled by A. W. Cynam & George B. Canner (1985)

*House Financial Institutions*  
2-02-00  
Attachment 1

# DISBURSEMENT REQUEST AND AUTHORIZATION

| Principal   | Loan Date  | Maturity   | Loan No | Call | Collateral | Account | Officer | Title |
|-------------|------------|------------|---------|------|------------|---------|---------|-------|
| \$12,550.12 | 02-27-2000 | 05-28-2003 |         |      |            |         |         |       |

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.

**Borrower:** TEST TEST (SSN: 001-11-1111)

**Lender:**

**LOAN TYPE.** This is a Fixed Rate (9.000%), Installment Loan to a Consumer for \$12,550.12 due on May 28, 2003.

**PRIMARY PURPOSE OF LOAN.** The primary purpose of this loan is for:

- Personal, Family, or Household Purposes or Personal Investment.
- Business (Including Real Estate Investment).

AVG. COVERAGE AMT. KS: \$11,500  
 AVG. AGE: 39  
 AVG. TERM: 40 MO.  
 AVG DISABILITY BENEFIT: \$238.00

**SPECIFIC PURPOSE.** The specific purpose of this loan is: Purchase vehicle.

**DISBURSEMENT INSTRUCTIONS.** I understand that no loan proceeds will be disbursed until all of Lender's conditions for making the loan have been satisfied. Please disburse the loan proceeds of \$12,550.12 as follows:

|   |             |
|---|-------------|
| Amount paid to me directly:             | \$11,500.00 |
| \$11,500.00 Deposited to Account # dddd |             |
| Amount paid to others on my behalf:     | \$932.87    |
| \$932.87 for Credit Insurance           |             |
| Other Charges Financed:                 | \$4.00      |
| \$4.00 Title Registration               |             |
| Total Financed Prepaid Finance Charges: | \$113.25    |
| \$100.00 Loan Fees                      |             |
| \$13.25 VSI Insurance                   |             |
| Note Principal: \$12,550.12             |             |

This Notice is required by Kansas law. In this Notice the term "you" means the Borrower named above.

**NOTICE TO CONSUMER:** 1. Do not sign this Agreement before you read it. 2. You are entitled to a copy of this Agreement. 3. You may prepay the unpaid balance at any time without penalty.

**FINANCIAL CONDITION.** BY SIGNING THIS AUTHORIZATION, I REPRESENT AND WARRANT TO LENDER THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT AND THAT THERE HAS BEEN NO MATERIAL ADVERSE CHANGE IN MY FINANCIAL CONDITION AS DISCLOSED IN MY MOST RECENT FINANCIAL STATEMENT TO LENDER. THIS AUTHORIZATION IS DATED FEBRUARY 27, 2000.

**BORROWER:**

X TEST TEST

## \* CREDIT INSURANCE DISCLOSURE \*

**VOLUNTARY CREDIT INSURANCE.** CREDIT LIFE INSURANCE AND CREDIT DISABILITY INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT AND WILL NOT BE PROVIDED UNLESS I SIGN AND AGREE TO PAY THE ADDITIONAL COST.

- I desire Credit Life Insurance on TEST TEST (\$307.02 Premium.) I desire Disability Insurance on TEST TEST (\$625.85 Premium).

Only the person(s) named above will be insured for Credit Life and/or Credit Disability Insurance. By accepting any application for insurance, Lender is not agreeing to provide insurance. No insurance is provided unless a premium is paid and an Insurance policy is issued.

Prior to signing this Credit Insurance Notice on February 27, 2000, I read and understood all of the provisions of this Disclosure, and I agree to pay all premiums for the insurance indicated above.

**BORROWER:**

X TEST TEST



January 21, 2000

State Senator Dwayne Umbarger  
RR#1 Box 181B  
Thayer KS 66776

COPY

***RE: Proposed Legislation concerning Mortgage Life and Disability Insurance on Residential Home Loans.***

Dear Senator Umbarger:

It has come to our attention that Kathleen Sebelius, Commissioner of Insurance for the State of Kansas will introduce a bill prohibiting Kansas Lenders from making home loans that have Mortgage Life and Disability Insurance premiums financed as part of the loan balance. Her proposal is that we can continue to sell the mortgage life and disability insurance to our borrower if they pay the premium in cash up-front at closing, but that we will not be able to finance the premium into the total amount of the loan.

At City State Bank, Fort Scott, Ks. a \$22 million dollar bank in a community of 8,100 people, our loans total \$14,449,000 or we have a 75% loan-to-deposit ratio. The national loan to deposit ratio is approximately 60%. We are lending more of our deposit money to our local customers than that of the average bank in the nation. Of that above loan total, \$5,100,000, or 35% are home loans. We currently have 169 home loans that average \$30,172.00 per loan.

In our community, a customer who buys a \$30-35 thousand dollar home basically lives from paycheck to paycheck. They are hardworking people who do not live beyond their means. They have scraped together the down payment to purchase a home. In many cases these homeowners have no permanent or traditional life insurance coverage outside perhaps a small term policy at work. Many are single parents with no other means of support other than their hourly wages. These are the same consumers that cannot afford a \$100-250 thousand dollar policy from Met Life or Prudential nor do many of them have checking or savings accounts for the mandatory monthly debit to pay the traditional policies. Some have health issues that prohibit them from obtaining traditional coverage.

These borrowers request and are issued a home loan, or other consumer loan that has a premium paid and financed as part of the loan total that pays for a life insurance and/or disability insurance policy that pays off the loan if they die, or makes the monthly loan payment if they are injured and cannot work. If the loan is paid off early, the customer is refunded the unused portion of the premium lowering the payoff total. Commissioner Sebelius wants these same customers to pay the premium, sometimes including coverage for several years, up-front when the loan is made. These customers have a hard time



paying the down payment plus closing costs, let alone the costs of the insurance premium.

*I would like to give you an actual example. Judy is 34, divorced with two children. She works full time at the nursing home, no alimony, and child support is sporadic at best. Her home loan with me is \$18,822.86. She requested Mortgage Life and Disability be issued on her home loan. At the time of her loan, the bank added a credit life and disability insurance premium to her home loan totaling \$1,077.89. This premium covers her for a 36 month term (balloon note). For \$29.94 dollars per month, her mortgage will be paid in full if she dies, and her monthly payment will be made if she is injured cannot work. By the way, Judy does not have a checking or savings account so a traditional life policy cannot be issued. At her age, I am sure a traditional life and disability policy can be issued for less monthly premium, but you see, in Judy's case, she knows her family's future is protected with one monthly payment on her home loan. Judy could never afford to pay for the \$1,077.89 up front at closing. If this premium was not financed, Judy's family would lose this home upon her death, and or disability.*

I read in the Kansas Insurance Department's Newsletter "Legislative Session 2000" dated January 18, 2000 that Commission Sebelius indicated that in certain "bad" cases, lenders have a predatory practice of packing credit insurance into loan contracts. I venture to say, that 100% of Kansas Bankers do not in any way take advantage of their clients with this insurance product, and I encourage you to vote against this amendment she is bringing before the legislature. By approving this legislation, you are actually hurting the very people she is trying to protect from the lenders and insurance companies. I fear that small home loans will not be as readily available to clients if the added protection of life and disability insurance is not available on home loans with the premium being financed, and the very people she is trying to protect will seek mortgage loans with high interest rate lenders from out of state. I have seen many of their loans, and you talk about Predatory.

I welcome any calls on this issue, I encourage you to research this important topic, and please think about your vote very carefully. I hope Commissioner Sebelius is not using this topic to further her political career.

Sincerely,

John R. Hill  
Vice President  
City State Bank



# FIRST COMMERCIAL BANK NA

ROBERT D. AMES  
Vice Chairman  
Southeast Kansas Region

*Copy*

January 31, 2000

State Representative Stanley Dreher  
Kansas House of Representatives  
Room 110-S  
Kansas State Capitol  
Topeka, Kansas 66601

Dear Stanley:

Since you serve on both the House Financial Institutions Committee and the House Insurance Committee, I wanted to write and express my concern about House Bill -2647.

First of all, there is little doubt that a few unscrupulous lenders prey upon certain consumers with credit life insurance sales. I do believe they are in a smaller minority, however. Overall, I feel that credit life and disability insurance has served the customers of our bank well. We may be different, in that we have complaints from our insurance company providers on occasion that the loss ratio on our policies is running too high to suit them. That means that the consumer is collecting on the benefits of their insurance policy. The purchase of insurance is always optional, at the decision of the customer.

In a low to moderate income area like ours, many people have trouble scraping together enough money to make a down payment on a house, to obtain financing. They do not have the extra funds to buy an insurance policy and the only way they can get coverage is for the financial institution to finance the premium. We finance a lot of \$20,000 to \$40,000 homes and these people usually don't have life insurance or disability insurance unless their employer provides these benefits (most lower wage jobs don't).

Taking away their right to finance an insurance policy premium may put a number of them in future peril of losing their homes if disaster strikes in the form of disability or death. This bill, in its present form punishes these innocent people while it pursues the few abusers who prey on innocent people. Hopefully, some better compromise can be worked out to address the situation.

Very truly yours,

Robert D. Ames  
Vice Chairman

W E A R E D E D I C A T E D T O Y O U R S U C C E S S

725 Bridge Street  
Humboldt, KS 66748  
316-473-2244  
FAX 316-473-2450

208 West Street  
Iola, KS 66749  
316-365-5700  
FAX 316-365-5797

17 South Lincoln  
Chanute, KS 66720  
316-431-7070  
FAX 316-431-7076

1-5



# Enough Coverage?

In 1992, **67 percent** of all adults in the United States had some form of life insurance. For most of those people, the *amount* of their coverage probably wasn't adequate.

- **84 percent had less than \$100,000 each**
- **19 percent had less than \$15,000 each**

If the amount of coverage currently isn't adequate, adding another debt will only worsen the financial picture. Your borrowers likely want their life insurance proceeds to help maintain the family's standard of living, not pay off installment debt.

Credit life insurance is a **convenient** way for your borrowers to secure **valuable protection** — without a physical examination and regardless of occupation. They'll have the peace of mind knowing their new debt won't reduce their current life insurance.

Source: 1994 Life Insurance Fact Book, American Council of Life Insurance



Good statistic to consider when looking at disability insurance:

In 1994, an estimated 60,452,000 people were injured, resulting in 790,584,000 restricted-activity days and 215,635,000 bed days.

Source: National Safety Council, 1997 edition of Accident Facts

Disability is the leading cause (48%) of mortgage foreclosures in the U.S. —  
*1991 US Govt Study*



POLSINELLI  
WHITE  
VARDEEMAN &  
SHALTON

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## Memorandum

**TO:** The Honorable Ray Cox, Chairman  
House Financial Institutions Committee

**FROM:** William W. Sneed, Legislative Counsel  
Conseco Financial Services, Inc.

**RE:** H.B. 2675

**DATE:** January 26, 2000

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent Conseco Financial Services, Inc., a major provider of financial services throughout the United States. One area in which my client is actively involved deals with the financing of manufactured housing. We appreciate that your Committee agreed to introduce H.B. 2675, and further appreciate the opportunity to present this testimony in favor of the bill.

As stated in our memorandum requesting the bill introduction, during the 1999 legislative session, the Kansas Legislature made major changes to the Uniform Commercial Credit Code ("UCCC"). The ultimate result of K.S.A. 16a-2-201 and 16a-2-401(a) has placed a serious curtailment on our ability to provide financing to Kansas citizens for the purchase of manufactured homes. It is our intent that H.B. 2675 will allow pre-paid finance charges to be applicable to manufactured housing in the same respect as such prepaid financing charges are available to traditional homes.

Manufactured homes currently represent approximately one out of four new single-family housing starts. Manufactured homes, unlike site-built homes, are constructed in a

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One AmVestors Place  
555 Kansas Avenue, Suite 301  
Topeka, KS 66603  
Telephone: (785) 233-1446  
Telecopy: (785) 233-1939  
wsneed@pwvs.com

*House Financial Institutions*  
*2-02-00*  
*Attachment 2*

factory environment and then shipped via highway to retail locations across the country. Once purchased, the home is delivered to the homeowner's site and installed on an appropriate foundation system. Once sited, the vast majority of manufactured homes are never transported again. At present, over 19,000,000 Americans live in approximately 9,000,000 manufactured homes.

Today's manufactured housing fulfills a vital need that grows more critical every day—the need for affordable, well-built housing. It provides not only an affordable place to live, but also the opportunity of home ownership for millions of Americans (and Kansans) who might not otherwise have the financial means to own a home. It is this particular point that has caused us to request the introduction, and your favorable consideration, of H.B. 2675.

In its simplest terms, the ability to provide for pre-paid finance charges is a way for the consumer to “buy down” the interest rate that the individual is utilizing for the financing of the home. The vast majority of consumers who purchase manufactured homes are more concerned about the monthly payment, and as such, the ability to use pre-paid finance charges is of critical importance.

Our proposed changes would simply allow the pre-paid finance laws currently on the books that apply to on-site housing to apply to manufactured homes. We contend that this proposal is in the best interests of the Kansas consumer and will continue to provide a valuable mechanism for Kansas citizens to purchase first-time homes.

Unfortunately, in my haste in drafting the amendments that we presented to your Committee, we have discovered that the proposed changes to K.S.A. 16a-2-201 did not accomplish this goal, and would most likely create more problems that are currently being faced by the industry. Attached is a proposed amendment that we would request your Committee consider in lieu of the amendment that is currently in H.B. 2675. In essence, we are requesting

that the Committee eliminate the amendment we previously offered and allow current law to be retained in K.S.A. 16a-2-201 that is found in page 3, lines 17-18. Instead, we would request that the attached "new" language be inserted in K.S.A. 16a-2-201(3).

I use the term "new" inasmuch as the proposed changes look like a considerable amount of new language, but all I have attempted to do is insert the same language we proposed be enacted in K.S.A. 16a-2-401. The remaining currently law in this section has simply been renumbered. We have added some additional language, which is now found in new subsection (c), but again, this language is a combination of the current language in K.S.A. 16a-2-201(3) and from K.S.A. 16a-2-401.

We appreciate the opportunity to present this testimony. We respectfully request your Committee's favorable consideration of the proposed H.B. 2675 and the amendments we have attached. Please let me know if you have any questions or comments.

Respectfully submitted,



William W. Sneed

Attachment

**New 16a-2-201 (3) and (4)**

(3) A Seller may charge a prepaid finance charge:

- (a) for a consumer credit sale secured by a security interest in a manufactured home as defined by 42 U.S.C. 5402(6) in an amount not to exceed 8% of the amount financed, provided that the aggregate amount of prepaid finance charges payable to the seller or any person related to the seller do not exceed 5% of the amount financed; and
- (b) for any other consumer credit sale, an amount not to exceed the lesser of two percent of the amount financed or one hundred dollars.
- (c) A prepaid finance charge permitted under this subsection is in addition to finance charges permitted under subsection 2. A prepaid finance charge permitted under this subsection is fully earned when paid and is nonrefundable, unless the parties agree otherwise in writing.

**16a-2-201(6)**

Delete original amendment and reinsert current language.

F:\LOBBY\hb2675.tes.doc

# KANSAS

BILL GRAVES  
GOVERNOR



Franklin W. Nelson  
Bank Commissioner

Sonya L. Allen  
General Counsel

Judi M. Stork  
Deputy Bank Commissioner

Kevin C. Glendenning  
Assistant Deputy Commissioner

OFFICE OF THE  
STATE BANK COMMISSIONER

## HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

February 2, 2000

Mr. Chairman and Members of the Committee:

My name is Sonya Allen. I am the General Counsel for the Office of the State Bank Commissioner. I am here today in support of House Bill 2676, which amends K.S.A. 9-1114. This statute currently states that a bank or trust company shall hold its annual meeting during the first 120 days of each calendar year. In April of 1996, it came to the attention of the Commissioner that this requirement in the statute was causing problems with scheduling of annual meetings by affiliated bank groups consisting of state-chartered banks and sister banks with national charters. These bank groups wanted to have the operational flexibility of holding annual meetings of all sister banks on the same day, but were restricted in designating a date for the meeting due to the requirement in K.S.A. 9-1114. Therefore the Commissioner, pursuant to the "wildcard authority" granted by K.S.A. 9-1715, issued a Special Order which allowed state chartered banks and trust companies to hold their annual meetings on any date specified in the bank's or trust company's bylaws. Issuance of the Order provided for operational efficiencies, resulting in cost savings to those banking groups with a mix of state and national banks, and restored the balance of equality in the laws governing state and national banks. The proposed language in HB 2676 mirrors that found in the National Bank Act at 12 U.S.C. §71 and §75.

We are now requesting the statute be amended to reflect the authority previously granted to banks and trust companies by Special Order 1996-2. The amendment is intended to clean up the regulatory structure, so that banks and trust companies will no longer need to look beyond the statute to the Special Order for guidance regarding holding their annual meetings. If this change is made in the statute, the Special Order will no longer be necessary, and will be revoked.

*House Financial Institutions*  
*2-02-00*  
*Attachment 3*

BILL GRAVES  
GOVERNOR



OFFICE OF THE

## STATE BANK COMMISSIONER

House Bill 2691 / February 2, 2000

Franklin W. Nelson  
Bank Commissioner

Sonya L. Allen  
General Counsel

Judi M. Stork  
Deputy Bank Commissioner

Kevin C. Glendening  
Assistant Deputy Commissioner

### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

Mr. Chairman and Members of the Committee:

My name is Kevin Glendening. I am the Assistant Deputy Bank Commissioner and the Acting Deputy Commissioner of Consumer and Mortgage Lending. In that capacity, I am also the Administrator of the Kansas Uniform Consumer Credit Code.

#### Overview of Activities

Before discussing the specific amendments contained in House Bill 2691, I would like to take a moment to provide you with a very brief overview of the Consumer and Mortgage Lending Division, and the activities in which the Division has been involved since its inception six months ago in July of 1999.

The responsibilities of this division principally center on the administration and enforcement of the Mortgage Business Act and the Kansas Uniform Consumer Credit Code. Figures for 1999 show that we received over 1,300 consumer inquiries and approximately 200 written complaints related to lenders and brokers under our supervision. During this same period we obtained just over \$87,000 in refunds for consumers. In the past six months we have taken action to revoke or deny the licenses of five companies; obtained fines or the removal of an officer or employee from an additional three companies; and, actively assisted in criminal prosecutions involving two additional companies. Many of the actions I've just mentioned evolved from investigating complaints received from consumers.

Other areas to which we have devoted our attention include the preparation of regulations to implement the numerous revisions made to the Uniform Consumer Credit Code in the last legislative session; and, the preparation of a new manual containing the statutes, regulations, and interpretations which was distributed to all licensees within the past sixty days. The last manual had not been updated since 1997, and I am hopeful that our licensees and registrants will utilize this new resource to better familiarize themselves with the laws that impact how they conduct their business. I believe this was an important basic step in reaching the goals of the division, simply because as the regulator, if we demand these

*House Financial Institutions  
2-02-00  
Attachment 4*



companies play by the rules, we must make a reasonable effort to communicate what the rules are.

Increasing the availability of information to consumers and licensees through the Internet is another continuing goal. Presently, our home page ([www.ink.org/public/osbc](http://www.ink.org/public/osbc)) contains lists of brokers who are authorized to conduct business in Kansas, and a list of those who have had their authority to conduct business denied or revoked. We plan to add additional information regarding supervised lenders. The information on our Web page is another tool to assist consumers in choosing a broker or lender, and to assist lenders and wholesalers in determining with whom they may legally conduct business. The site also contains application forms, laws, and a variety of related information. I think we've seen success in this area, as use of this resource continues to grow. Our web page is now visited by the public an average of thirty-six times each working day.

As Commissioner Nelson reported to you last week, much work remains to be done in the mortgage and consumer lending area. We continue working toward the goals of implementing meaningful consumer protections and prudent regulatory oversight.

#### **House Bill 2691**

Mr. Chairman, with your permission I will briefly describe the proposed amendments and then answer any questions the committee may have.

On page 2, line 3 we have struck the words "the greater of". The appraisal information described in this section is to be used in connection with the high LTV disclosure added to the law last year. It was the intent to allow the lender to use either county tax assessor records or a certified appraisal for this purpose. However the existing wording implies both documents must be obtained. The amendment clarifies the lender has an option to obtain either one.

Page 2, line 36 reflects the proper rate of 61 to 90 days. This matches the intended benchmark figure which is the same used in the K.S.A. 16-207 usury rate calculation.

Page 8, line 23 clarifies that license application fees for supervised lenders are nonrefundable and that the licenses are nonassignable.

The proposed amendment on page 10, beginning on line 19 addresses the "blended rate" concept on non real estate closed-end consumer loans. Last year's amendment to the Code simplified the rate structure from four potential rates down to two. Shortly after the law was passed last year several industry representatives expressed concern that the new language could be interpreted as eliminating the blended rate concept, something that has been in place for perhaps twenty years or more. As a result, with a more restrictive rate lenders might be less inclined to offer the small consumer loans to which this section applies. In my discussions with former Acting Consumer Credit Commissioner David Brandt, he indicated that it was not his intention to eliminate the blended rate concept in the language he

offered last session. Therefore, I agreed to offer the amendment contained in this bill, which would clarify that the blended rate concept continues to be valid. If permitting the blended rate structure to continue provides the necessary incentive for lenders to offer small closed-end consumer loans, arguably it may provide some potential consumer benefits. Credit extended in this form does have a cap on rates and late fees, and does allow for a grace period for late payments. This is in contrast to what would be the most likely alternative form of credit for small consumer loans, a lender credit card. A lender credit card has no cap on rates or fees, and no grace period. These terms are set by whatever the parties agree.

Last year, the legislature made a number of substantial revisions to the Uniform Consumer Credit Code. The law in place today contains enhanced enforcement powers for the Administrator, and a good balance of enhanced consumer protection and flexibility for lenders. The proposed amendments contained in House Bill 2691 are minimal compared to those of last year, and can for the most part be described as clean up language. The limited number of amendments was an intentional decision, simply because I do not believe a sufficient amount of time has elapsed to allow for the full implementation of the numerous changes made to the Code last year. There are other areas where I feel future amendments may be warranted to improve and/or fine tune consumer protections, and we will seek input from all interested parties as we consider those areas. At this point however, I don't believe the soup has had enough time to cook if you will, and I urge the committee to proceed cautiously when considering possible amendments to the Code this year beyond those I've identified in this bill.

Mr. Chairman, finally I would request these amendments be made effective upon publication in the Kansas Register. I am happy to answer any questions from the Committee.

# **Kansas Association of Financial Services**

**George Barbee, Executive Director**

**Jayhawk Tower, 700 SW Jackson, Suite 702**

**Topeka, KS 66603-3758**

**785/233-0555**

**Fax: 785/357-6629**

Statement to:

House Committee on Financial Institutions

House Bill 2691

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Mr. Chairman and members of the Committee, my name is George Barbee, and I am appearing today on behalf of the Kansas Association of Financial Services. KAFS membership is made up of rather large financial service companies, such as Household Finance, Norwest, Associates, American General, and others. These companies are engaged in making consumer credit loans under the statutes, rules, and regulations of the Uniform Consumer Credit Code (UCCC).

House Bill 2691 is a result of sweeping changes and new regulations made to the UCCC in 1999. The changes were so comprehensive that it is not surprising that some adjustments have to be made this year as a follow-up to last year's action.

I direct your attention to page 2, line 2, regarding the definition for appraised value. The language adopted last year read 'the greater of' the two following defined appraisals: one being the appraisal value of the real estate, as reflected in the most recent records of the tax assessor of the county; and the other being the fair market value of the real estate, as reflected in a written appraisal of the real estate performed by a Kansas licensed or certified appraiser within the past 12 months. The language 'the greater of' could be interpreted to mean you would be required to obtain both of these pieces of information, appraisal A and appraisal B. By eliminating the words 'the greater of' in line 3 then you could use either appraisal A or appraisal B.

The next change you will find on page 10, line 19, of the bill. This section, 3 (2), refers to closed end loans. Last year, rates were deregulated for consumer credit and credit cards, which means most UCCC loans have no limit on interest rates so that the market competition sets the rates. However, the Committee felt that closed end loans should be calculated according to an actuarial method, not to exceed (a) 36% per annum on any such loan in the amount of \$860 or less and (b) 21% per annum on any such loan in an amount which exceeds \$860. It was found that the second part was confusing and an administrative memo was obtained from the UCCC Commissioner. The new language: (a) 36% per annum on the portion of the unpaid balance which is \$860 or less, and (b) 21% per annum on the portion of the unpaid balance that exceeds \$860, reflects the results of that administrative memo. This amendment simply restores some language that was deleted last year to clarify intent of the section.

Mr. Chairman, KAFS supports these amendments proposed by the Deputy Commissioner of Consumer Credit and would urge you to act favorably on House Bill 2691.

Thank you for the opportunity to appear today in support of this bill, and I would be glad to stand for questions should there be any.

*House Financial Institutions*  
*2-02-00*  
*Attachment 5*