

Approved: Feb. 1, 2000
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 January 31, 2000 in Room 529-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Kevin Glendenning, Deputy Commissioner for Consumer Credit
A. W. Pickel, III, Kansas Association of Mortgage Bankers

Others attending: (See Attached)

Senator Becker moved for the introduction of legislation which would address the liability of local officials who must deposit public funds in other than state-chartered banks. The motion was seconded by Senator Brownlee. Motion carried.

Action on SB 441—Health insurance; removing sunset on 1997 amendments required by HIPAA
Senator Feleciano moved that the bill be reported favorably for passage. Motion was seconded by Senator Praeger. Motion carried.

Action on SB 440—Insurance; risk-based capital requirements
Senator Feleciano moved that the bill be reported favorably for passage. Motion was seconded by Senator Praeger. Motion carried.

Senator Becker moved that the minutes of January 19, 25, and 27 be approved as presented. Motion was seconded by Senator Clark. Motion carried.

Hearing on SB 457—Banks and trust companies; inactive companies or departments
Kevin Glendenning, Deputy Commissioner for Consumer Credit and representing the Office of the State Bank Commissioner, explained that the bill dealt with the statutes which address the issue of mergers which occur during the year, and who is responsible for the assessment of the institution that does not survive the merger (Attachment 1). The normal equation for this process is that whoever gets the assets pays the annual assessment. This would apply to state-chartered banks only. The assessments are based on the worth of the bank on March 31. The annual rate is \$237.00 per million and is paid in two payments.

The hearing on **SB 457** was closed.

Hearing on SB 459—Mortgages; mortgage business and mortgage loans
Kevin Glendenning, Deputy Commissioner for Consumer Credit, gave an overview of the activities of his division involving unscrupulous mortgage brokers and the updating of the Uniform Consumer Credit Code in accordance with legislation passed in the 1999 Session (Attachment 2). A web page has been developed listing those brokers who are authorized to conduct business in Kansas as well as a list of those who have had such authority revoked.

The proposed legislation provides clarification in the following areas:

- Responsibility of the registrant for the actions of their employees
- Restrictions on hiring employees with a criminal history
- Applicability of the enforcement powers to individuals and companies whose activities fall within the scope of the law
- Require registrants to respond to information relative to an examination or investigation

CONTINUATION SHEET

- Adds as an enforcement option the ability to obtain a payment for consumer education as part of a settlement agreement
- Makes changes in requirements pertaining to the escrow account maintained by registrants and provide them with more options as to where those accounts may be maintained.

Mr. Glendenning requested an additional amendment which pertains to the disclosure all registrants are required to make to consumers (Attachment 3). This would also change the implementation date to publication in the Kansas Register.

Mr. A. W. Pickel III, President of Leader Mortgage in Johnson County, spoke as a representative of the Kansas Association of Mortgage Brokers which has 125 members. In his presentation he reviewed the following points:

- The Association is pleased with the outcome of the Mortgage Act as it has weeded out the “bad apples”
- The Act has not caused undue regulation of the industry
- The need for education of consumers on mortgage banking as well as education needed for those entering the field. He suggested a minimum level entrance exam for mortgage brokers.
- The necessity for the \$10,000 cash reserve (liquid assets) required for all mortgage brokers. The federal government requires the broker to have a minimum of \$50,000 in liquid assets before they are allowed to make second mortgage loans.

Mr. Pickel forecast the industry will continue to grow but perhaps not at the rapid pace seen in the past few years. He stated that the mortgages are usually sold immediately so no “inventory” is retained.

The hearing on **SB 459** was closed.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: Jan. 31

NAME	REPRESENTING
Kevin Glendening	OSBC
Amy Johnson	OSBC
A.W. PICKEL, III	KINDS ASSOCIATION OF MTG. BROKERS
Linda DeCoursey	KS Insurance Dept
Hanne Ann Hower	FAHP
Ela Pearson	
Martin Hower	Hower's Capital Report
Matt Goddard	HCBFA

STATE OF KANSAS
BILL GRAVES
GOVERNOR

Franklin W. Nelson
Bank Commissioner

Judi M. Stork
Deputy Bank Commissioner



Sonya L. Allen
General Counsel

Kevin C. Glendening
*Acting Deputy Commissioner
Consumer and Mortgage Lending*

OFFICE OF THE
STATE BANK COMMISSIONER

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

January 31, 2000

Mr. Chairman and Members of the Committee:

My name is Kevin Glendening. I am the Acting Deputy Commissioner of the Consumer and Mortgage Lending Division in the Office of the State Bank Commissioner. I am appearing on behalf of the OSBC Banking and Trust Company Division today to testify in favor of Senate Bill 457. Senate Bill 457 would amend K.S.A. 9-1703, which governs the annual assessments levied by the Office of the State Bank Commissioner on all state-chartered banks and trust companies. Subsection (e) of the statute addresses the issue of mergers which occur during the year, and who is responsible for the assessment of the institution that does not survive the merger. The general concept of the statute is that the surviving institution, if it is a state-chartered institution, would be responsible for the assessment of the merged institution. The rationale is that the assets still remain in the state system, and should be available for the OSBC to assess against, to pay the expenses of oversight of the institution. A couple of years ago, this concept was added to the statute. However, it has become apparent that the revision did not thoroughly address the situation. Subsection (2) has been drafted to clarify the responsibilities of institutions involved in merger transactions.

The practice of the OSBC is to assess banks and trust companies at the beginning of each fiscal year, with half of the assessment coming due on July 15 and the second half coming due on the following January 15. The purpose of the amendment before you today is to clarify who is responsible for the second half of the assessment in a merger transaction that occurs between July 1 and December 31. The proposed language states that in the event a merger occurs between July 1 and December 31, the surviving entity is obligated to pay the second half assessment of the institution that it is merging with.

Here is an example:

In July, the OSBC assess Bank A and Bank B. The first half of the assessments are due on July 15, and are paid by the respective banks. Then, Bank A and Bank B merge on August 1, with Bank A being the survivor. The amendment would make it clear that Bank A is responsible for the second half of the assessment of Bank B which will come due on January 15 of the following year. Again, they are responsible because they have maintained and hold the prior assets of Bank B.

Senate Financial Institutions & Insurance

Date 1/31/2000

Attachment # 1

BILL GRAVES
GOVERNOR



OFFICE OF THE
STATE BANK COMMISSIONER

Senate Bill 459 / January 31, 2000

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

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 Senate Bill 459, 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

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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) 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. This information is another tool to assist consumers in choosing a broker 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.

Senate Bill 459

The proposed amendments contained in Senate Bill 459 fall into two general groups.

The first group, comprised of amendments to 9-2204, 2207, 2212, and 2218, provides further clarification in the following areas: First, the responsibility of the registrant for the actions of their employees. Second, restrictions on employing individuals who have a criminal history or who themselves have been the subject of an enforcement action. Third, provide clarification of the applicability of the enforcement powers to individuals and companies whose activities fall within the scope of the law. Companies attempting to find a loophole to evade some enforcement action by us have prompted most, if not all of the proposed amendments in this first group.

The second group of amendments contained in 9-2207, 2209, and 2213 address the following issues: First, strengthening our ability to require registrants to respond to our request for information relative to an examination or investigation. This issue, I feel is of particular importance given the number of out of state registrants with whom we deal. Second, it adds as an enforcement option the ability to obtain a payment for consumer education as part of a settlement agreement. Both of these enforcement tools currently apply to companies licensed under the Consumer Credit Code and I believe it makes sense to extend them to registrants under the Mortgage Business Act as well. Finally, the proposed amendment contained in 9-2213 would make a change in requirements pertaining to the escrow account maintained by registrants and provide them with more options as to where those accounts may be maintained.

Mr. Chairman, I would also request to add one additional amendment to 9-2208 (b). This section pertains to the disclosure all registrants are required to make to

consumers. I would like to add a sentence to the end of paragraph (b) which states: *A copy of the acknowledgment shall be provided to the customer.*

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

K.S.A. 9-2208. Certificate of registration; signed acknowledgment; contents. (a) Every certificate of registration shall be properly displayed in a prominent place within the registrant's place of business in a way that reasonably assures recognition by customers and members of the general public who enter the registrant's place of business.

(b) Prior to entering into any contract for the provision of services or prior to the registrant receiving any compensation or promise of compensation for a mortgage loan the registrant shall acquire from the customer a signed acknowledgment containing such information as the commissioner may prescribe by rule and regulation. *A copy of the acknowledgment shall be provided to the customer.*

(c) The registrant shall identify that such registrant is registered under this act in all advertising or solicitations directed to Kansas residents, including Internet solicitations. For the purpose of this subsection, "advertising" does not include business cards or promotional items.

(d) No registrant shall conduct mortgage business in this state using any name other than the name or names stated on the certificate of registration. (L. 1999, ch. 45, § 8; April 8.)