

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order on January 28, 2004 by Chairman Ray Cox at 3:30 p.m. on in Room 527-S of the Capitol.

All members were present except:

Representative Larry Campbell- excused
Representative Vaughn Flora- excused

Committee staff present:

Bruce Kinzie, Revisor's Office
Bill Wolff Legislative Research Department
Maggie Breen, Secretary

Conferees appearing before the committee: Clarence Norris, Bank Commissioner
Kevin Glendening, Office of State Bank Commissioner
Chuck Stones, Kansas Bankers Association

Others attending:

See Attached List.

Clarence Norris, Office of the State Bank Commission, gave an overview of his office. Since 1999, the duties of the Office of the Consumer Credit Commissioner have been consolidated with those of the Office of the State Bank Commissioner. This office regulates and examines 263 state chartered banks that employ nearly 8,000 people and have assets of over \$23 billion. It also regulates an ever growing number of entities in the Consumer & Mortgage Lending Division. These entities have grown from 8,230 last year to 9,792 at present and are presenting quite a challenge. They are only able to examine about 38% of the entities but are working on being able to do more. The budget for the OSBC is about \$6 million. They are a fee-funded agency so they do not use taxpayer money. In fact, over the last two years the department has given \$1.4 million to the general fund. The Consumer & Mortgage Lending budget of \$1.2 million is going to have to increase. This will be funded through assessments, licensing, and penalties. Cash refunds to consumers plus consumer saving through reductions in contractual obligations for fiscal years 2002, 2003, and the first part of 2004 total \$20,784,714. (**Attachment 1**)

Chairman Cox opened the floor for bill introductions.

Kevin Glendening, Office of the State Bank Commissioner, requested an amendment to Kansas Uniform Consumer Credit Code, K.S.A. 16a-2-404 having to do with payday loans.

Chairman Cox said that without objection, the bill would be introduced.

Chairman Cox opened the hearing on **HB 2580 - Banks and Banking, general powers.**

Chuck Stones, Kansas Bankers Association, stated that the current law allows banks to invest in investment securities which are evidences of debt with a limit of 15% capital. They can make a loan to an amount of 25% of capital. An example of an investment that is an evidence of debt is an industrial revenue bond, which is a type of municipal security that is not a general obligation bond. The taxing authority of the city is not responsible for payment of that bond. Payment is 100% the responsibility of the company the city is issuing the bond for. The bank could make a loan to that company up to 25% of its capital, but only buy the security back from that company up to 15% of its capital. The risk analysis for both are the same so the limits should be the same. He thanked the committee for their consideration of the issue. (**Attachment 2**)

Clarence Norris, Bank Commissioner, stated that they would not oppose raising the investment limit for investment securities to 25%. (**Attachment 3**)

Chairman Cox closed the hearing on **HB 2580** and presented the minutes for the January 21st meeting. Representative Dillmore moved that they be approved as written. Representative Boyer seconded the motion. The motion carried.

The meeting adjourned at 4:04 p.m. The next meeting is scheduled for Wednesday, February 4.

KANSAS

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, Bank Commissioner

KATHLEEN SEBELIUS, GOVERNOR

State Bank Information

Number of State Banks	263
Number of Branches operated by state banks	447
Total number of offices of state banks	710
Number of employees in all 710 offices	7,697
Total assets for state banks as of September 30, 2003	\$ 23,167,373,000.00

OSBC State Bank Examination Data Sheet - Year Ends

Year Ending	Not Rated	1	2	3	4	5	Total / 3-4-5
12-86	0	65	213	95	59	12	444 / 166
12-87	0	69	202	92	56	16	435 / 164
12-88	0	76	194	106	40	8	424 / 154
12-89	0	71	214	87	30	5	407 / 122
12-90	0	72	199	81	40	2	394 / 123
12-91	0	62	219	69	25	4	379 / 98
12-92	0	68	214	64	18	1	365 / 83
12-93	0	97	197	47	5	4	350 / 56
12-94	0	121	181	24	9	1	336 / 34
12-95	0	138	158	17	2	0	316 / 19
12-96	0	144	134	14	1	0	293 / 15
12-97	0	171	111	5	1	0	288 / 6
12-98	2	167	108	3	1	0	281 / 4
12-99	2	154	117	4	2	0	279 / 6
12-00	2	145	111	7	4	0	269 / 11
12-01	3	142	110	12	2	0	269 / 14
12-02	3	137	106	11	5	0	262 / 16
12-03	2	121	109	26	5	0	263 / 31
12-04							

January 2004

Banking Department

Mission. The mission of the Office of the State Bank Commissioner is to ensure the fair and reliable supervision of state chartered banks, trust companies/departments, and savings and loans; educate regulated establishments to promote a better understanding of and compliance with laws and regulations; and preserve the dual banking system through the chartering of new state banks. In the consolidation with the Office of the Consumer Credit Commissioner, the Office of the State Bank Commissioner has taken on the role of protecting consumers from unfair practices of suppliers of consumer credit by enforcing the laws governing consumer credit transactions.

Operations. The primary mechanism for ensuring the financial integrity of all state chartered financial and trust institutions is through the examination of these operations. After on-site examinations are performed, examination reports are prepared by staff and submitted to the Commissioner for review and approval. Should problems which compromise safety and soundness of the institution be found and not corrected, the Commissioner can take charge of the institution until the problems are corrected, or corrective actions may be implemented through a Board Resolution, Memorandum of Understanding, Commissioner's Directive, or an Order to Cease and Desist.

The Office of the State Bank Commissioner is responsible for enforcement of the Kansas Uniform Consumer Credit Code (UCCC) and the Kansas Mortgage Business Act (KMBA). Under the UCCC, consumer loan companies must be licensed by the Commissioner prior to operation and are subject to compliance examinations. Under the KMBA, the Commissioner has the authority to levy fines, fees, settlements and conduct legal prosecution. A program for the education of consumers with respect to credit practices and personal finance is funded in part by an annual grant to Wichita State University to support the Kansas Council on Economic Education. Additional grants are provided to Housing and Credit Counseling, Inc. and other organizations that provide counseling and education to distressed consumers.

Goals and Objectives. A goal of the Department is to regulate state chartered banks, savings and loans, trust departments, and consumer loan companies in an efficient, fair, capable, and professional manner. The following objectives are identified:

Maintain the system of state chartered financial institutions and facilitate the chartering of such institutions in accordance with statutory requirements.

Examine all state chartered banks, savings and loans, and trust departments at least once within an 18-month period. Examine licensees and registrants under the Kansas UCCC and KMBA at least once within a 24-month period.

Another goal of this agency is to educate and protect consumer buyers, lessees, and borrowers against predatory lenders and unscrupulous business practices by some suppliers of consumer credit. Objectives are to:

Ensure that lenders and retail sellers are licensed or registered and in compliance with the Kansas UCCC and applicable federal truth-in-leasing and lending regulations.

Increase the level of knowledge of both the consumer and the industry about consumer finance and the laws regulating consumer credit.

Statutory History. Authority for this program and the powers of the Bank Commissioner are found in KSA 9-101 et seq. and KSA 75-1304. Authority for the State Banking Board is found in KSA 74-3004 et seq. On July 1, 1999, the Office of the Consumer Credit Commissioner was merged into the Office of the State Bank Commissioner. The agency is responsible for enforcing the Kansas Uniform Consumer Credit Code (KSA 16a-1-101 et seq.) and the Fair Credit Reporting Act (KSA 50-701 et seq.). The agency regulates credit service organizations in accordance with KSA 50-1011 et seq.

KANSAS

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, Bank Commissioner

KATHLEEN SEBELIUS, GOVERNOR

Office of the State Bank Commissioner
Consumer & Mortgage Lending Division

Summary of Activities

Entities Regulated

Entities	FY 2002	FY 2003
Consumer Lenders and Mortgage Companies	1,410	2,031
Other Regulated Entities	6,820	7,761
Total Regulated Entities	8, 230	9,792

Consumer Complaints and Industry Requests

	FY 2002	FY 2003
Telephone Contacts	3,311	8,566
Web-site Hits	315,144	843,396

Examinations Conducted

Entity	FY 2003	Estimated for FY 2004
Consumer Lenders & Mortgage Companies	93	135

Enforcement Actions

Action	FY 2002	FY 2003	FY 2004 (1 st Half Totals)
Enforcement Actions Issued	57	59	44
Fines and Settlements Collected	\$185,500	\$131,100	\$89,400
Cash Refunds to Consumers	\$829,998	\$7,207,945	\$874,478
Consumer Savings through Reductions In Contractual Obligations	\$9,342,738	\$1,085,876	\$1,443,679

Cash Refunds to Consumers plus Consumer Savings through Reductions in Contractual Obligations for Fiscal Years 2002, 2003 and the first half of 2004 total \$20,784,714.

Grants and Educational Programs Sponsored by the Consumer and Mortgage Lending Division

Kansas Council on Economic Education (KCEE)
Wichita, Kansas

Consumer and Mortgage Lending (CML) provides grants to the Kansas Council on Economic Education (KCEE) to enhance curriculum for public school teachers, which facilitates economic education to their students regarding financial issues.

Sunflower Community Action
Wichita, Kansas

CML provides grants to Sunflower Community Action, a grassroots organization, who works locally with the Hispanic community to increase the awareness of predatory lending and other consumer finance issues.

Consumer Credit Counseling Services, Inc. (CCCS)
Salina/Wichita, Kansas

CML provides a grant for the development of consumer education programs in central and western Kansas through Consumer Credit Counseling Services, Inc. In addition to the consumer education program, CCCS offers consumer counseling for adults and economic education programs in the immigrant communities located in southwest Kansas.

Housing and Credit Counseling, Inc.
Topeka, Kansas

Grants supplied through CML provide consumer education and counseling for adults, as well as economic educational classes for students in public schools.

Kansas State University
Manhattan, Kansas

CML awarded Kansas State University a grant to fund their Consumer Finance Workshops which are designed to reach incoming freshman and new students regarding the development of a personal budget and the proper use of credit cards.



The Kansas Bankers Association

1-28-04

TO: House Financial Institutions Committee
FROM: Chuck Stones, Senior Vice President

RE: HB 2580

Mr. Chairman and Members of the Committee,

The Kansas Bankers Association appreciates this opportunity to appear before you regarding HB 2580.

Current law allows a bank to only invest in investment securities which are evidences of debt up to 15% of a bank's capital. Now that the lending limit for state-chartered banks is 25%, this bill would bring the limit for investing in securities which are evidences of debt (example: industrial revenue bonds) to 25%.

I have attached an email from a banker that explains the issue better than I can.

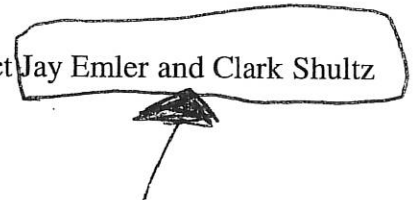
Thank you for your consideration of this issue and we urge your positive action.

From: "Paul Ediger" <Paul@hsbt.com>
To: <CStones@ksbankers.com>
Cc: <Shultz@house.state.ks.us>; <emler@senate.state.ks.us>
Sent: Monday, September 08, 2003 5:10 PM
Subject: Suggested recommendation from KBA to legislature to clarify KSA9-1101 (6)

Chuck, I had need to ask Judi Stork and Sonja Allen at the Bank Commissioners office for an interpretation of lending and investment limits for Industrial Revenue Bonds. The loan limit for commercial loans is 25% of capital, while the investment limit for an IRB is 15% of capital. An IRB and a commercial loan have many of the same characteristics and in fact the only one liable to repay is the borrower. As you know, the issuing entity on an IRB is usually the City, but the City has no obligation to pay the bond or interest, only the revenue from the lease secures the payment, so in essence the IRB is the same as a commercial loan. When I pointed out to the Commissioners office that I could loan 25% to a start up corporation, I could only loan 15% if the obligation is an IRB, simply because the City appears on the name (even though the City had no obligation). This didn't make sense. They agreed and said the statute has been amended so many times over the years, that the limits and definitions on IRBs probably has fallen through the cracks over time. They suggested I contact you and perhaps KBA could lobby for a clarification and change in 9-1101 (6).

I think this issue may come up more and more, as IRB's are an important economic development tool for many communities. Many of these are relatively small issues that don't justify the cost of a full blown bond underwriting and marketing program and a single bank purchases the entire issue, primarily because they would have made a commercial loan on the same terms, but there are tax advantages to the borrower by going the IRB route. But when the bank runs into the 15% limitation, it has to get a participating bank involved, with a written commitment from the participating bank before the originating bank can make a commitment to the borrower.

I think this is an issue that KBA can carry to the legislature. I will contact Jay Emler and Clark Shultz with this also by copying them on this e-mail.



Thanks for letting me bend your ear on this one.

Paul Ediger, President
Home State Bank & Trust Co.
223 N. Main, P.O. Box 1266
McPherson, KS 67460-1266
Phone 620-241-3732
Fax: 620-241-7362

**STATE OF KANSAS
KATHLEEN SEBELIUS
GOVERNOR**

**Clarence W. Norris
Bank Commissioner**

**Judi M. Stork
Deputy Bank Commissioner**



**Sonya L. Allen
General Counsel**

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

**OFFICE OF THE
STATE BANK COMMISSIONER**

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

January 28, 2004

Mr. Chairman and Members of the Committee:

My name is Clarence W. Norris. I am the Bank Commissioner for the State of Kansas. HB 2580 would amend K.S.A. 9-1101 (6) a provision in the powers section of the State Banking Code. That section currently limits a state bank's investment in "investment securities" to 15% of capital stock paid in and unimpaired and the unimpaired surplus fund. In 1996, the Banking Code was amended to raise the legal limit on loans to 25% of a bank's capital. Investment securities pose risks that are similar in type to loans, and we would not oppose raising the investment limit for investment securities to 25%.