

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 p.m. on February 11, 2004 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Ron Gaches,
Kevin Glendening, Office of the State Bank Commissioner

Others attending:

See Attached List.

Chairman Cox opened the hearing on HB 2635 - UCCC, additional charges, insufficient check charges, notice.

Ron Gaches, Kansas Financial Services Association, said **HB 2635** proposes to amend the Kansas Consumer Credit Code chapter 16a, in two ways. First it would allow a modest fee to be charged by regulated lenders for executing an electronic payment through the use of automated clearing-house procedures on the borrower's checking account. Authorization of the \$5 fee will fairly compensate lenders for a service increasingly in demand without being an undue burden on borrowers. The second change is intended to authorize an alternative "written notice" option to the consumer prior to charging the consumer for an insufficient check penalty. Current law requires a notice to the consumer by registered mail if the maximum \$30 penalty is charged. The original bill substituted a written notice in the monthly notice for the registered mail notice. However, he had an amendment to the bill as he learned that many UCCC lenders issue a payment book and don't send borrowers a monthly notice. The amendment authorizes the lender to provide written notice on either the monthly statement or by sending the consumer notice through use of first class mail. He thanked the committee for consideration of the proposal. (**Attachment 1**)

Kevin Glendening, Office of the State Bank Commissioner, presented an amendment to the bill. Item (4) adding "single installment" changing "licensee" to "creditor" and adding "subject to the following limitations: (A) No charge shall be assessed in the creditor also collects a delinquency fee on the same installment; and (B) No charge shall be assessed where the consumer has agreed in writing with the creditor to make all scheduled payments through the use of the automated clearinghouse procedures." (**Attachment 2**)

Bruce Kinzie said that considering the amendments being presented, he would recommend a substitute bill to make it cleaner, thus more clear. Ron Gashes said he had no objection to a substitute bill with the amendments included.

Representatives Vickrey, Campbell, Burroughs, Boyer, and Goico had questions on the bill which were answered by Ron Gashes and Kevin Glendening.

Chairman Cox closed the hearing on HB 2635 and said the committee would work HB 2685 - Payday loans, concerning regulation thereof.

Representative Dreher make a motion to amend HB 2685 on page 3, line 4, by striking the words "made under" and inserting the words "subject to." Representative Grant seconded the motion. The motion carried.

Representative Campbell made a motion to pass HB 2685 as amended. Representative Boyer seconded the motion. The motion carried.

CONTINUATION SHEET

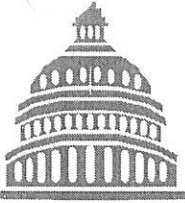
MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE at 3:30 p.m. on February 11, 2004 in Room 527-S of the Capitol.

Representative Grant made a motion to approve the minutes of February 9 as written. Representative Campbell seconded the motion. The motion carried.

Chairman Cox said the committee would meet twice next week.

Meeting adjourned at 4:09 p.m.

The next meeting is scheduled for Monday, February 16.



Gaches, Braden, Barbee & Associates

Governmental Affairs & Association Management

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**House Financial Institutions Committee
Testimony of Kansas Financial Services Association
Regarding HB 2635: Uniform Consumer Credit Code Changes
Submitted by Ron Gaches,
Gaches, Braden, Barbee & Associates
Wednesday, February 11, 2004**

Thank you Chairman Cox and members of the Committee for this opportunity to appear on behalf of the Kansas Financial Services Association in support of HB 2635.

HB 2635 proposes to amend the Kansas Consumer Credit Code Chapter 16a in two ways.

First, the bill would allow for a modest fee to be charged by regulated lenders for executing an electronic payment through the use of automated clearing-house procedures on the borrower's checking account. Current law is very clear in limiting permissible fees to those specifically enumerated in the UCCC. As consumer-authorized electronic transfers have become more common, the added cost of executing these transactions warrant a small fee to recover their costs. We believe the authorization of the \$5 fee will fairly compensate lenders for a service increasingly in demand without being an undue burden on borrowers.

The second change in the bill is intended to authorize an alternative "written notice" option to the consumer prior to charging the consumer for an insufficient check penalty. Current law authorizes a maximum \$10 penalty may be charged for an insufficient check penalty without any notice to the consumer following the bad check, or a maximum \$30 penalty following notice to the consumer by registered mail.

We believe that notification by registered mail is an expensive and unnecessary step to inform the consumer of the imposition of an insufficient check penalty. Such penalties are commonplace in our society and consumer notices have become common and ubiquitous.

The original bill draft substituted a written notice in the monthly notice for the registered mail notice. However, we have learned that there are many UCCC lenders who don't send borrowers with a monthly notice, but rather, issue borrowers with a payment book that includes a payment coupon that is remitted each month with the payment.

I have attached for your consideration an amendment that addresses this issue by authorizing the lender to provide written notice on either the monthly statement or by sending the consumer notice through use of first class mail.

Thank you for consideration of our proposal. I'm available to answer questions from the committee.

KAFS Testimony re: HB 2635

Proposed amendment to HB 2635:

KSA 2003 Supp. 16a-2-501 (e) (ii)

"Written notice" shall be presumed to have been given a drawer or maker of an insufficient check when notice is sent by first class ~~restricted mail as defined by K.S.A. 60-103, and amendments thereto,~~ addressed to the person to be given notice of such person's address as it appears on the insufficient check or to such person's last known address or notice provided on a regular monthly statement if the statement provides clear notice of the insufficient check charge being assessed.

KSA 2003 Supp. 16a-2-501 (e) (iii) & (iv) would be restored to their original language



KANSAS

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

KATHLEEN SEBELIUS, GOVERNOR

(4) A charge not exceeding \$5 per payment, if the borrower makes a *single installment* payment by authorizing a licensee *creditor*, verbally or in writing, to write a check or process a payment through use of the automated clearing house procedures on the borrower's checking account, *subject to the following limitations:*

(A) No charge shall be assessed if the creditor also collects a delinquency fee on the same installment; and

(B) No charge shall be assessed where the consumer has agreed in writing with the creditor to make all scheduled payments through the use of the automated clearinghouse procedures.