

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 a.m. on March 9, 2004 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Bill Wolff, Legislative Research
Ken Wilke, Office of the Revisor of Statutes
Nancy Shaughnessy, Committee Secretary

Conferees appearing before the committee:

Chuck Stones, KBA
Sonya Allen, KBC
Candy Shively, SRS
Matt Goddard, Heartland Community Bankers

Others attending:

See Attached List.

The Chair opened the hearing on **HB 2580—Banks and banking, general powers.**

Chuck Stones testified as a proponent on the bill (Attachment 1). This is a bill dealing with Industrial Revenue Bonds (securities which are evidences of indebtedness). The loan limit for commercial loans is twenty-five per cent (25%) of a bank's capital, while the limit for an IRB is currently fifteen per cent (15%). Since they are essentially the same, **HB 2580** proposes to increase the limit for IRB's to the same twenty-five per cent (25%) level as a loan.

Clancy Norris, Commissioner, State Banking Commission has no opposition to the bill. He stated that in 1996, the Banking Code was amended to raise the legal limit on loans to twenty-five per cent (25%) of a bank's capital. Investment securities pose risks that are similar in type to loans, and they would not oppose raising the investment limit for investment securities to twenty-five per cent (25%). (Attachment 2)

The Chair closed the hearing on **HB 2580** and opened the hearing on **HB 2781—Prearranged funeral agreements, contracts or plans.** Chuck Stones testified as a proponent of the bill.

This bill would amend existing statute to clarify the distribution of the balance in a pre-arranged funeral account after the funeral home has been paid. If the deceased received assistance, SRS, the funeral home or the estate must notify the bank that medical assistance was received. The balance in the pre-arranged funeral agreement shall be reimbursed to SRS, based on the extent of the assistance provided.

Senator Buhler wanted clarification on the point that a consumer could be on SRS assistance and still have a pre-arranged funeral plan. Dr. Wolff indicated that was accurate and in SRS print materials it was encouraged as in the long run it saved the State money.

Candy Shively testified as a proponent of the bill, (Attachment 3). She stated that the legislation clarified the notice requirements for recoveries from excess funds in a deceased medical assistance recipient's funeral agreement based on the Department's estate recovery process.

Matt Goddard, Heartland Community Banker's Association, (Attachment 4). He stated that he appeared as a support to the legislation because they believe it removes the ambiguity from the current law.

The Chair noted that written testimony had been received from Pam Scott of the Funeral Directors and Embalmers Association (Attachment 5) and then closed the hearing on **HB 2781**.

The Chair asked the Committee to review **SB 542—Prohibiting the use of social security numbers on health insurance cards and prescription drug cards.** This bill was brought by Senator Allen. There is a balloon (Attachment 6) on the bill and consensus has been reached. It is a language issue which has to do with making certain that the numbers do not reflect any semblance of a social security number sequence.

Senator Adkins moved that the balloon be adopted and the bill be passed out favorably. Senator Helgerson seconds. Motion passes. Meeting adjourned, next meeting on March 10th.

SENATE FINANCIAL INSTITUTIONS & INSURANCE

Date: 3-9-04

Name:

Representing:

Tuesday

Chuck Stokes

KBA

Dennis Priest

SRS

Candy Shively

SRS

~~Janet~~

KID

Natalie Haag

Security Benefit

Sony Allen

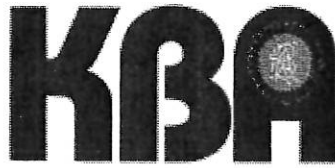
Office of State Bank Commissioner

Clancy Norris

" " " "

Shari Weber

Community Bankers Association



The Kansas Bankers Association

3-9-04

TO: Senate Financial Institutions and Insurance Committee
FROM: Chuck Stones, Senior Vice President

RE: HB 2580

Madam Chair and Members of the Committee,

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

Industrial revenue bonds (securities which are evidences of indebtedness) are a type of municipal bond in which the repayment is solely the responsibility of the company for whom the bond issue is issued. The decision to buy an industrial revenue is based solely on the credit worthiness of the company, just like a loan. The loan limit for commercial loans is 25% of a banks capital, while the limit for an IRB is currently 15%. Since they are essentially the same, HB 2580 proposes to increase the limit for IRB's to the same 25% level as a loan.

IRB's are an important economic development tool for many Kansas communities. Many are relatively small issues that, in many cases, a single bank can purchase the whole issue. This drastically cuts the cost of the bond issue for the issuer. If a single bank is unable to purchase the whole issue, there are underwriting and marketing costs involved in the issue. Raising the limit to 25% will make it possible in more cases to reduce these costs. IRB's are an attractive alternative to traditional borrowing because of the interest rate and some tax advantages to the issuer.

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.

Senate FI & I Committee

Meeting Date: 3-9-04

610 SW Corporate View, Box 4407 ♦ Topeka, KS ♦ 66604-0407 ♦ 785-232-3444

Attachment No.: 1

e-mail - cstones@ksbankers.com

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.
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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

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

March 9, 2004

Madame 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%.

From an examination perspective, this expanded investment limit will be looked at and combined with other debts and obligations of the same borrower. For example, if a bank has invested in investment securities of a particular entity and also has a loan outstanding to that same entity, the total amount the bank can have invested in and loaned to the entity collectively could not exceed 25% of the bank's capital.

Senate F I & I Committee

Meeting Date: March 9, 2004

Attachment No.: 2

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

Senate Financial Institutions and Insurance Committee
March 9, 2004

HB 2781 - Funeral Agreements

Integrated Service Delivery
Candy Shively, Deputy Secretary
785-296-3271

For additional information contact:
Office of Governmental and Media Affairs
Tanya Dorf, Director of Legislative Affairs

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Senate FI & I Committee

Meeting Date: 3-9-04

Attachment No.: 3

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

Senate Financial Institutions and Insurance Committee
March 9, 2004

HB 2781- Funeral Agreements

Senator Teichman and members of the Committee, thank you for the opportunity to testify regarding HB 2781. My name is Candy Shively, Deputy Secretary with the Kansas Department of Social and Rehabilitation Services. This legislation clarifies the notice requirements for recoveries from excess funds in a deceased medical assistance recipient's funeral agreement based on the Department's estate recovery process.

As background, the Estate Recovery Program was initially authorized by the Kansas Legislature in 1992 and has since become a federally mandated process. The program allows the agency to recover Medicaid expenses properly paid on behalf of a Medicaid recipient from their post-death assets. The program is limited to recipients who are either 55 years of age or older or in a long term care arrangement. Most recoveries are from probate actions and family agreements. Significantly, no recovery action is taken when there is a surviving spouse or a minor or disabled child. SRS recouped over \$5.5 million during FY 2003 and approximately \$25 million during the last five fiscal years. Approximately 40% of the recouped funds were returned to the State general fund; the remaining funds were returned to the federal government.

In 2002, the Legislature passed amendments to K.S.A. 16-301 et seq. involving excess funds from pre-arranged funeral plans owned by medical assistance recipients. The legislation provided for funds remaining after the payment of a recipient's funeral to be forwarded to the Department as partial satisfaction of the medical assistance claim. The legislation has been successful. In the period of July 1, 2002 to June 30, 2003, SRS has recovered almost \$287,000 from 320 cases. For the first six months of FY 2004, ERU has collected approximately \$120,000 from 180 cases.

As initially enacted in 2002, this legislation gave the owner of the funeral plan responsibility for notifying funeral homes, financial institutions and insurance companies about the right of the State to recoup excess funds due to estate recovery requirements. While generally successful, there have been situations where the notice was less than complete, resulting in excess funds being paid to other family members or contingent beneficiaries. To insure better notification, HB 2781 modifies the law to allow a written notice to be given at any time by the individual recipient, the funeral home or SRS.

The medical assistance program encourages families to pre-arrange their funerals and burials by allowing such funds and assets to be excluded in eligibility determination. However, when there are excess assets, those assets should be available to the State to offset the cost of operation of the medical assistance program. Clarification of notice requirements addressed by this bill, reduces the likelihood of manipulation of the law to avoid recoupment. Our goal is to be fair to all individuals and families impacted by the estate recovery process while still allowing for enhanced collections in an accurate and equitable manner. This bill would allow us to meet this goal.

Thank you for the opportunity to present. I would be happy to stand for questions.



Matthew S. Goddard, Vice President

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mgoddard@hcbankers.com

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: March 9, 2004

Re: House Bill No. 2781

The Heartland Community Bankers Association appreciates the opportunity to express our support for House Bill 2781 to the Senate Committee on Financial Institutions and Insurance.

Under Kansas law, the funds for any prearranged funeral agreement must be deposited with a federally insured financial institution. The law also requires that, following the payment of funeral expenses, the financial institution holding those funds must pay any remaining balance to the estate of the purchaser of the agreement, unless the Department of Social and Rehabilitation Services provided medical assistance to the deceased or a deceased spouse. In that case, the remaining balance is payable to SRS.

House Bill 2781 requires SRS, the funeral home or the purchaser of a prearranged funeral agreement to provide written notice to the financial institution that medical assistance was provided and SRS may have a claim to any remaining balance in the account. Under present law, there is no formal process or method for the financial institution to receive this information. House Bill 2781 will resolve this by requiring the written notice. To address longstanding concerns about the liability of financial institutions, the bill also states that the financial institution is not liable to SRS if it does not receive the required written notice.

The Heartland Community Bankers Association respectfully requests that the Senate Financial Institutions and Insurance Committee recommend HB 2781 favorable for passage.

Thank you.



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EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

March 9, 2004

To: Senate Financial Institutions and Insurance Committee

From: Pam Scott, Executive Director

Re: House Bill No. 2781

Madam Chair and members of the Committee, on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA) I appear before you today in support of House Bill No. 2781.

The KFDA believes House Bill No. 2781 would clarify current statutes dealing with the recovery, by the Kansas Department of Social and Rehabilitation Services (SRS), of excess funds remaining in prearranged funeral agreements, contracts or plans once funeral services are provided and paid for from said funds.

Typically, funds remaining in a prearranged funeral account are paid to the estate of a deceased by a financial institution, insurance company or funeral home if there is no claim to the funds by the Estate Recovery Unit of SRS. Since the passage of Substitute for Senate Bill No. 513 in 2002, questions have arisen as to whether a financial institution, insurance company or funeral home should be liable to SRS in cases where, excess funds are paid to the estate of a deceased because they had no knowledge the deceased was a recipient of medical assistance or that SRS had a claim against the excess funds remaining. We believe that was not the intent of the law passed in 2002, which was passed with our support.

Funeral homes do want to fully cooperate with SRS's efforts to recover excess funds. They do not believe, however, that they should be penalized or held liable when, in good faith, they have paid excess funds to the estate of the deceased rather than SRS. In those cases SRS still has the ability to file a claim against the estate of the deceased for recovery of the excess funds.

We believe the amendments contained in this bill help to clarify the original intent of the 2002 legislation and would ask for your support of House Bill No. 2781.

Senate FI & I Committee

Meeting Date: 3-9-04

Attachment No.: 5

SENATE BILL No. 542

By Committee on Ways and Means

2-20

9 AN ACT concerning insurance; relating to insured's social security num-
10 bers; amending K.S.A. 2003 Supp. 40-4623 and repealing the existing
11 section.
12

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

14 New Section 1. [On and after January 1, 2006, no insurance company,
15 including health maintenance organizations, offering any type of accident
16 and sickness policy covering individuals residing in this state shall:

17 (1) Print an insured's social security number, or any part of the num-
18 ber, on the insured's policy card.

19 (2) Make an individual's social security number available by reading
20 the magnetic strip or other encoded information on the policy card.]

21 New Sec. 2. [On and after January 1, 2006, no insurance company,
22 including health maintenance organizations, offering any type of coverage
23 for prescription drugs or devices covering individuals residing in this state
24 shall:

25 (1) Print an insured's social security number, or any part of the num-
26 ber, on the insured's policy card.

27 (2) Make an individual's social security number available by reading
28 the magnetic strip or other encoded information on the policy card.]

4 29 Sec. 3. K.S.A. 2003 Supp. 40-4623 is hereby amended to read as
30 follows: 40-4623. (a) A health benefit plan that provides coverage for
31 prescription drugs or devices and issues a card for claims processing and
32 an administrator of any such plan, including, but not limited to, a phar-
33 macy benefits manager and a third-party administrator shall issue a card
34 containing uniform prescription drug information to each person entitled
35 to such card under the health benefit plan. If required for claims adju-
36 dication, the uniform prescription drug information card shall specifically
37 identify and display the following information:

- 38 (1) ANSI-BIN number;
- 39 (2) processor control number or group number or both;
- 40 (3) card issuer identifier;
- 41 (4) prescription claims processor, if different from card issuer;
- 42 (5) cardholder identification number;
- 43 (6) cardholder or insured name;

On and after July 1, 2006: (a) No insurance company, including health maintenance organizations, offering any type of accident and sickness policy in this state shall print or encode an insured's social security number on or into the insured's policy card.
 (b) Any distinguishing identifier assigned to the insured's policy card shall be a combination of numbers or letters or both, which is unique to the insured.
 (c) An insured's distinguishing identifier shall not, in any way, be based on or depend on the insured's social security number.

On and after July 1, 2006: (a) No insurance company, including health maintenance organizations, offering any type of coverage for prescription drugs or devices covering individuals residing in this state shall print or encode an insured's social security number on or into the insured's policy card.
 (b) Any distinguishing identifier assigned to the insured's policy card shall be a combination of numbers or letters or both, which is unique to the insured.
 (c) An insured's distinguishing identifier shall not, in any way, be based on or depend on the insured's social security number.

New section 3. If a federal law takes effect requiring the United states department of health and human services to establish a national unique patient health identifier program, any person or entit federal law shall be deemed provisions of sections 1 and and K.S.A. 2003 Supp. 40-4

Senate F I & I Committee

Meeting Date: 3-9-04

Attachment No.: 6

Senate F I & I Committee
March 9, 2004
Attachment 6

6-2

- 1 (7) claims submission names and addresses; and
- 2 (8) help desk telephone numbers.

3 (b) A uniform prescription drug information card shall be issued by
 4 a health benefit plan to each person entitled to such card under the health
 5 benefit plan upon enrollment and reissued upon any change in such per-
 6 son's coverage that affects one or more mandatory data elements con-
 7 tained on the card.

8 (c) Notwithstanding the foregoing provision, any health benefit plan
 9 or administrator of such plan may utilize, in lieu of such card, electronic
 10 technology which contains all of the information required for claims ad-
 11 judication, as long as such electronic technology is provided by the health
 12 benefit plan or administrator of such plan to the pharmacies which will
 13 adjudicate the prescription drug claims.

14 (d) *[On and after January 1, 2006, no uniform prescription drug in-*
 15 *formation card shall:*

16 (1) *Print an insured's social security number, or any part of the num-*
 17 *ber, on the insured's card.*

18 (2) *Make an individual's social security number available by reading*
 19 *the magnetic strip or other encoded information on the insured's card.*

20 Sec. 4. K.S.A. 2003 Supp. 40-4623 is hereby repealed.

21 Sec. 5. This act shall take effect and be in force from and after its
 22 publication in the statute book.

(d) On and after July 1, 2006: (1) No cardholder's social security number shall be printed or encoded on or into any card issued under this section.
 (2) Any cardholder identification number or other distinguishing identifier assigned to the card issued to a cardholder shall be a combination of numbers or letters or both, which is unique to the cardholder.
 (3) A cardholder's identification number or other distinguishing identifier shall not, in any way, be based on or depend on the cardholder's social security number.

5
6