

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 P.M. on February 16, 2005 in Room 527-S of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Michele Alishahi, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Patti Magathan, Committee Secretary

Conferees appearing before the committee:

None

Others attending:

See attached list.

Chairman Cox opened the floor to work **HB 2143** - Consumer credit code, finance charges.

Representative Brunk made a motion, which was seconded by Representative Grant, to report this bill be not passed.

Representative Vickery made a substitute motion to amend HB 2143 as recommended by the Kansas Banker's Association. Motion was seconded by Representative Brown. Representative Brown dispersed copies of the proposed amendments which modifies language in Section 3 and includes language for a "floating" rate cap. **(Attachment 1)**

A Point of Order was requested by Chairman Cox regarding the substitute motion. Mr. Kinzie and Representative Humerickhouse clarified that it is legal to consider the substitute motion.

Substitute Motion passed.

Chairman Cox invited comments on the substitute motion. Points brought out in the ensuing discussion included: the need for data to make an informed decision, a desire to incorporate services for the financially under-served population within the existing financial services network, whether an interest rate cap is the proper tool to incorporate into the UCCC, the desire to protect the consumer, a compelling need to look at the economic impact for the state, and a desire to further study the issue.

Representative Grant made a motion to table HB 2143 as amended by committee until Feb. 16, 2006 to allow time to collect and evaluate data. Motion was seconded by Representative Olson. Motion passed.

An interim study will be requested by Chairman Cox.

Chairman Cox opened the floor to work **HB 2145** - Consumer credit code, regulations, penalties. Melissa Calderwood of Legislative Research provided an overview of this bill. Representative Dillmore expressed an objection to some provisions of the bill. Representative Cox said that in order to resolve some issues with various sections of this bill he would not entertain motions today but would continue the bill to the next meeting on February 21, 2005.

Meeting was adjourned at 4:15P.M.

FINANCIAL INSTITUTIONS COMMITTEE GUEST LIST

DATE: 2-16-05

NAME	REPRESENTING
Kym Caches	KAFS
JOHN C. BOTTENBERG	
Patricia Lightner	HSBC
Rod Aycox	Loan Max
Mike Moore	Loan Max
Bill Sneed	Midwest Title
Jim Garbner	PSWS
D. S. Koch	PSWS
Bill Denny	KS Credit Union Assn.
Dag Wareham	Kansas Bankers Assn.
Whitney Smith	KIMHA
Matt Goddard	HCBA
Garnie Ann Lower	LoanMax
Brad Smoot	LoanMax
Julie Hein	LoanMax

1 the billing cycle bears to 30. For purposes of this subsection, a variation
2 of not more than four days from month to month is "the last day of the
3 billing cycle."

4 (4) For any period in which a finance charge is due, the parties may
5 agree on a minimum amount.

6 (5) This section does not apply to a sale of an interest in land. Sub-
7 section (11) of K.S.A. 16a-2-401, and amendments thereto, governs the
8 limitations on finance charges for a contract for deed to real estate where
9 the parties agree in writing to make the transaction subject to the uniform
10 consumer credit code.

11 Sec. 3. K.S.A. 2004 Supp. 16a-2-401 is hereby amended to read as
12 follows: 16a-2-401. (1) For any consumer loan incurred pursuant to open
13 end credit, ~~including, without limitation,~~ a loan pursuant to a lender credit
14 card, ~~a lender may charge contract for and receive a finance charge at~~
15 ~~any rate agreed to by the parties not to exceed 21% per annum,~~ subject,
16 however, to the limitations on prepaid finance charges set forth in sub-
17 section (6). This subsection does not apply to a consumer loan secured
18 by a first mortgage or a second mortgage.

excepting

issued by a supervised financial organization

or 5% above the contract rate set forth in K.S.A. 16-207(b),
and amendments thereto, whichever is greater,

19 (2) For any consumer loan incurred pursuant to closed end credit, a
20 lender may charge a periodic finance charge, calculated accordingly to
21 the actuarial method, not to exceed: (a) 36% per annum on the portion
22 of the unpaid balance which is \$860 or less, and (b) 21% per annum on
23 the portion of the unpaid balance which exceeds \$860, subject, however
24 to the limitations on prepaid finance charges set forth in subsection (6).
25 This subsection does not apply to a consumer loan secured by a first
26 mortgage or a second mortgage.

For any consumer loan incurred pursuant to a credit card
issued by a supervised financial organization, a lender may
contract for and receive a finance charge at any rate agreed
to by the parties.

27 (3) For any consumer loan secured by a second mortgage or a con-
28 sumer loan secured by an interest in a manufactured home as defined by
29 42 U.S.C. 5402(6), a lender may charge a periodic finance charge, cal-
30 culated according to the actuarial method, not to exceed 18% per annum,
31 subject, however to the limitations on prepaid finance charges set forth
32 in subsection (6). This subsection does not apply if the lender and the
33 consumer agree in writing that the finance charge for the loan is governed
34 by K.S.A. 16-207(b), and amendments thereto.

35 (4) If the parties to a consumer loan secured by a first mortgage or
36 a consumer loan secured by an interest in a manufactured home as de-
37 fined by 42 U.S.C. 5402(6) agree in writing to make the transaction sub-
38 ject to the uniform consumer credit code, then the periodic finance
39 charge for the loan, calculated according to the actuarial method, may
40 not exceed 18% per annum, subject, however to the limitations on pre-
41 paid finance charges set forth in subsection (6).

42 (5) This section does not limit or restrict the manner of calculating
43 the finance charge, whether by way of add-on, discount or otherwise, so