Approved: ARB/jsb
Date: 02/15/2010

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Anthony Brown at 3:38 p.m. on February 8, 2010, in Room 784 of the Docking State Office Building.

All members were present except:
Representative Mario Goico- Absent

Committee staff present:
Bruce Kinzie, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Joyce Bishop, Committee Assistant

Conferees appearing before the Committee:
Judi Stork, Deputy State Bank Commissioner, Office of State Bank Commissioner
Doug Wareham, Senior Vice President, Government Relations, Kansas Banker's Association
Shawn Mitchell, President, Community Banker's Association of Kansas
Kathleen Olsen, Sr. Vice President, General Counsel, Kansas Banker's Association

Others attending:
See attached list.

Chairperson Brown opened the hearing on **HB 2608 - Financial institutions, examinations and annual assessments.**

Judi Stork, Deputy State Bank Commissioner, Office of State Bank Commissioner appeared as a proponent for **HB 2608** (Attachment 1).

Doug Wareham, Senior Vice President, Government Relations, Kansas Banker's Association, appeared as a proponent for **HB 2608** (Attachment 2).

Shawn Mitchell, President, Community Banker's Association of Kansas presented written testimony only as a proponent for **HB 2608** (Attachment 3).

Chairperson Brown closed the hearing on **HB 2608**.

Chairperson Brown opened the hearing on **HB 2609 - Banks and banking, general power, purchase life insurance.**

Judi Stork, Deputy State Bank Commissioner, Office of State Bank Commissioner appeared as a proponent for **HB 2609** (Attachment 4).

Kathleen Olsen, Sr. Vice President, General Counsel, Kansas Banker's Association, presented written testimony only as a proponent for **HB 2609** (Attachment 5).
Shawn Mitchell, President, Community Banker's Association of Kansas, presented written testimony only as a proponent for **HB 2609** (Attachment 6).

Chairperson Brown closed the hearing on **HB 2609.**

Chairperson Brown announced the possible action on bills previously heard that had been scheduled for today will be postponed until the next meeting.

The next meeting is scheduled for February 10, 2010.

The meeting was adjourned at 3:50 p.m.

HOUSE FINANCIAL INSTITUTIONS COMMITTEE
3:30pm,
Room 784, Docking State Office Building

GUEST LIST

DATE: February 8, 2010

NAME	REPRESENTING
Judi Stork	Office of State Bank Commissioner
Diane Bellquist	Office State Bank Commissioner
TED HENRY	CAPITOL STRATEGIES.
Haley DaVee	KCUA
Matthew Goddard	Heartland Community Bankers Assoc.
Kathy Olsen	KS Bankers Assn
Doug Wareham	"
Jeff Bottenberg	Polsinelli Shughart, P.C.
Travis Lowe	Little Gov't Relations
Matt Casey	GBA
Chris Gigstad	Federico Consulting.

KANSAS

MARK PARKINSON, Governor

OFFICE OF THE STATE BANK COMMISSIONER
J. THOMAS THULL, Bank Commissioner

HOUSE FINANCIAL INSTITUTIONS COMMITTEE

February 8, 2010

Mr. Chairman and Members of the Committee:

My name is Judi Stork and I am the Deputy Commissioner for the Banking Division. I am here today in support of HB 2608. This bill amends K.S.A. 9-1703, which is the statute that governs the assessments of the banks and trust companies we regulate. Currently the agency assesses banks and trust companies once per year in July, with collection of that assessment occurring twice; once in July and once in January. Under subsection (c) of this statute we are asking for the ability to continue to assess once per year, but collect the assessment more frequently than twice per year. As written, the statute would allow us to collect the assessments, as needed, but no more frequently than once per month. This will help the agency manage their money more suitably, only collecting the necessary funds for the operation of the agency when the timing is appropriate. Envisioning how the agency will implement this statutory change, as budget adjustments occur throughout the year, the agency will collect smaller amounts of funds more frequently to avoid an excess of monies at any given time, and a surplus remaining at year end. Since we are a fee funded agency, our only source of revenue comes from these assessments.

Thank you for your time. I would be happy to answer any questions from the committee.

700 S.W. Jackson, Suite 300 · Topeka, Kansas · 66603-3796 · 785-296-2266 · F

HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 1

Kansas Bankers Association

Date: February 8, 2010

To: House Financial Institutions Committee

From: Doug Wareham, Senior Vice President-Government Relations

Re: **<u>Support for H.B. 2608</u> – (State Bank Commission Assessments)**

Chairman Brown and members of the House Financial Institutions Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). KBA's membership includes 322 Kansas banks that provide financial services in 440 towns and cities across the state. Kansas banks currently employ just over 14,000 Kansans. Thank you for the opportunity to appear in support of H.B. 2608.

H.B. 2608 would simply allow the state bank commissioner to collect assessments from state-chartered banks as needed, but not more frequently than monthly. State bank assessments are currently collected bi-annually. We do not anticipate any additional cost associated with the more frequent collection of assessments, in light of the fact the process is electronic. We do believe allowing the State Bank Commissioner to collect fees as needed, could potentially reduce the financial impact on state-chartered banks that fully support the operations of the department's division of banking. We also believe this change will help alleviate the challenges associated with the Department having large fund balances on hand that have become an attractive target for fee sweeps in recent years.

Once again, thank you for the opportunity to provide comments in support of H.B. 2608, and I would be happy to stand for questions now or at the appropriate time.

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HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 2

CBA
Community Bankers
Association of Kansas

Directed By The Members We Serve

To: House Financial Institutions Committee

From: Shawn Mitchell, President and CEO
Community Bankers Association of Kansas

Date: February 8, 2010

RE: Written Support of House Bill 2608

Chairman Brown and Members of the Committee:

I am Shawn Mitchell, President and CEO of the Community Bankers Association of Kansas (CBA). CBA represents community banks from every corner of Kansas with the vast majority of them being state chartered financial institutions. I appreciate the opportunity to provide written comment in support of House Bill 2608.

House Bill 2608 is an important piece of legislation that enables the office of the state bank commissioner flexibility in the collection of annual assessment fees from state chartered financial institutions. The ability to collect the assessed fees when deemed appropriate by the commissioner allows for the office of the state bank commissioner to budget and plan knowing precisely what dollar amount of funding is arriving and when that funding will be available, without having to deal with the issue of extreme volatility in cash balances of the departments accounts.

State chartered financial institutions accrue for their assessment fee monthly based upon the annual fee that the office of the bank commissioner calculates as being due for the fiscal year for each institution. The financial institutions currently pay the assessment fee semiannually to the office of the state bank commissioner. Financial institutions would not see a reduction, or increase, in assessment fees arising from HB 2608. They would still accrue for the fees as before and the fees would be collected in such installment periods as the commissioner deemed appropriate instead of the current semiannual structure.

In conclusion, the Community Bankers Association of Kansas respectfully requests your support for House Bill 2608.

3003 SW Van Buren, Suite A * Topeka, Kansas 66611 * Phone (785) 271-1

HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 3

HOUSE FINANCIAL INSTITUTIONS COMMITTEE

February 8, 2010

Chairman Brown and Members of the Committee:

My name is Judi Stork and I am the Deputy Commissioner for the Banking Division. I am here today in support of HB 2609. This bill amends K.S.A. 9-1101, which is the powers section for the state banks of Kansas. Currently, subsection (24) sets forth certain provisions under which a state bank may purchase life insurance. In 2005, the Commissioner issued Special Order 2005-1 that granted parity for state banks with national banks with regard to the purchase of life insurance. It allows state banks to purchase life insurance for the same reasons and to the same extent as national banks. An example of this would be the allowance for a bank to purchase insurance in connection with <u>current</u> employee benefit plans. The Kansas statute only allowed for <u>deferred</u> compensation and benefit plans. The Special Order also incorporated the requirement for a bank to have a thorough pre-purchase analysis as well as guidelines the banks must follow in the purchase of the product, to ensure the bank understands the risks of BOLI. It further requires a comprehensive risk management process for holding the BOLI. The amendment of this statute is simply to codify the authority Kansas banks have had for five years under the Special Order. It will also eliminate confusion of any reader who looks only to K.S.A. 9-1101 and is unaware of the existence of the Special Order.

I would be happy to stand for questions from the committee.

Financial Institution Letters

Bank-Owned Life Insurance
Interagency Statement on the Purchase and Risk Management of Life Insurance

FIL-127-2004
December 7, 2004

Summary: The federal banking agencies are providing guidance on the safe and sound banking practices they expect institutions to employ for the purchase and ongoing risk management of bank-owned life insurance.

Highlights:

- Institutions should have a comprehensive risk management process for purchasing and holding bank owned life insurance (BOLI).
- The safe and sound use of BOLI depends on effective senior management and board oversight.
- Institutions should establish policies and procedures governing their BOLI holdings, including meaningful risk limits.
- A sound pre-purchase analysis helps ensure that institutions understand the risks, rewards and unique characteristics of BOLI.
- Institutions also should monitor BOLI risks on an ongoing basis subsequent to purchase.

Continuation of FIL-127-2004

Distribution:
FDIC-Supervised Banks

Suggested Routing:
Chief Executive Officer
Chief Financial Officer
Chief Risk Officer

Related Topics:
Section 24 of the Federal Deposit Insurance Act and Part 362 of the FDIC's Regulations

Attachment:
Executive Summary
Interagency Statement on the Purchase and Risk Management of Life Insurance

Contact:
FDIC Regional Accountant or Christine M. Bouvier, Senior Policy Analyst, Division of Supervision and Consumer Protection cbouvier@fdic.gov or 202 898-7289.

Printable Format:
The following documents are formatted as PDF files.

PDF Help - Information on downloading and using the PDF reader.

FIL-127-2004 48k
Executive Summary 75k
Interagency Statement on the Purchase and Risk Management of Life Insurance Contents 15k
Interagency Statement on the Purchase and Risk Management of Life Insurance 126k

HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 4-2

Note:
FDIC Financial Institution Letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2004/index.html.

To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies of FDIC FILs may be obtained through the FDIC's Public Information Center, 801 17th Street, NW, Room 100, Washington, DC 20434 (1-877-275-3342 or (703) 562-2200).

Financial Institution Letters
FIL-127-2004
December 7, 2004

Bank-Owned Life Insurance
Interagency Statement on the Purchase and Risk Management of Life Insurance

The federal banking agencies are providing guidance on the safe and sound banking practices they expect institutions to employ for the purchase and ongoing risk management of bank-owned life insurance.

The federal banking agencies are issuing the attached Interagency Statement on the Purchase and Risk Management of Life Insurance to institutions to help ensure that their risk management processes for bank-owned life insurance (BOLI) are consistent with safe and sound banking practices. The interagency statement also provides guidance for split-dollar arrangements and the use of life insurance as security for loans. Among the safe and sound banking practices discussed in this interagency statement is the need for senior management and board oversight of BOLI, including both a thorough pre-purchase analysis of risks and rewards and post-purchase risk assessment. The guidance discusses the permissibility of BOLI purchases and holdings, as well as their risks and associated safety and soundness considerations. An appendix to the interagency statement describes the types of life insurance and the purposes for which institutions commonly purchase life insurance and also contains a glossary of BOLI-related terms.

The guidance in the Interagency Statement for the pre-purchase analysis of life insurance applies to all BOLI contracts entered into after December 7, 2004. The guidance concerning the ongoing risk management of BOLI subsequent to its purchase applies to all holdings of life insurance regardless of when purchased.

To provide institutions with an overview of the Interagency Statement, an executive summary of the guidance is attached. For complete information on the FDIC's supervisory expectations for institutions that purchase and hold BOLI, please refer to the statement itself.

Questions about the Interagency Statement on the Purchase and Risk Management of Life Insurance may be addressed to your FDIC Regional Accountant or Senior Policy Analyst Christine M. Bouvier, Division of Supervision and Consumer Protection, at (202) 898-7289 or cbouvier@fdic.gov.

Michael J. Zamorski
Director
Division of Supervision and Consumer Protection

HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 4-3

Financial Institution Letters

Executive Summary - Interagency Statement on the Purchase and Risk Management of Life Insurance

Institutions purchase life insurance for a variety of purposes, including recovering the cost of providing employee benefits and protecting against the loss of "key persons." Institutions should have a comprehensive risk management process for purchasing and holding bank-owned life insurance (BOLI).

The two broad types of life insurance are temporary (term) insurance and permanent insurance. Temporary (term) insurance provides protection for a specified time period, its premiums do not have a savings component, and it does not create a cash surrender value (CSV). Permanent insurance is intended to provide life insurance protection for the entire life of the insured. Its premium structure includes a savings component, thereby creating a CSV. If permanent insurance is surrendered before death, surrender charges may be assessed against the CSV.

The ability of FDIC-supervised banks to purchase life insurance is governed by state law. Some state laws permit state-chartered banks to engage in activities (including making investments) that go beyond the authority of a national bank. Section 24 of the Federal Deposit Insurance Act generally requires FDIC-supervised banks to obtain the FDIC's consent before engaging as principal in activities that are not permissible for a national bank.

The safe and sound use of BOLI depends on effective senior management and board oversight. An institution's board of directors must understand the complex risk characteristics of the institution's insurance holdings and the role this asset is intended to play in the institution's overall business strategy.

Each institution should establish internal policies and procedures governing its BOLI holdings, including guidelines that limit the aggregate CSV of policies from any one insurance company as well as the aggregate CSV of policies from all insurance companies. It is generally not prudent for an institution to hold BOLI with an aggregate CSV that exceeds 25 percent of its Tier 1 capital. Therefore, the FDIC expects an institution that plans to acquire BOLI in an amount that results in an aggregate CSV in excess of this concentration limit, or any lower internal limit, to gain prior approval from its board of directors or the appropriate board committee. In this situation, management is expected to justify that any increase in BOLI resulting in an aggregate CSV above 25 percent of Tier 1 capital does not constitute an imprudent capital concentration.

The management of an institution should conduct a thorough pre purchase analysis to help ensure that the institution understands the risks, rewards, and unique characteristics of BOLI. The nature and extent of this analysis should be commensurate with the size and complexity of the potential BOLI purchases and should also take into account existing BOLI holdings. An effective pre-purchase analysis involves the following actions by management:

(1) Identify the need for insurance and determine the economic benefits and appropriate insurance type, i.e., permanent or temporary (term) insurance.
(2) Quantify the amount of insurance appropriate for the institution's objectives.
(3) Assess vendor qualifications, including its reputation, experience, financial soundness, and commitment to the BOLI product and the adequacy of its services.
(4) Review the characteristics of the available insurance products and select those that best match the institution's objectives, needs, and risk tolerance.
(5) Select an insurance company after evaluating and performing credit analyses on the companies from which insurance may be purchased.
(6) Determine the reasonableness of compensation provided to the insured employee if the insurance provides additional compensation to the employee.
(7) Analyze the risks associated with the insurance and the institution's ability to monitor and respond to these risks.
(8) Evaluate alternatives to the purchase of BOLI for accomplishing the institution's objectives.
(9) Document the pre-purchase analysis and the purchase decision.

A comprehensive assessment of BOLI risks on an ongoing basis is an important element of the risk management process, especially for an institution whose aggregate BOLI holdings represent a capital concentration. Management should review the performance of the institution's insurance assets with its board of directors at least annually.

The BOLI risks that should be assessed, managed, monitored, and controlled include liquidity, transaction/operational (including the tax and insurable interest implications), reputation, credit, interest rate, compliance/legal, and price risk. All of these risks are present in permanent insurance. In particular, the CSV of permanent life insurance is one of the least liquid assets on an institution's balance sheet. In contrast, temporary insurance does not expose an institution to liquidity, interest rate,

HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 4-4

or price risk because it does not have a CSV. These risks need not be evaluated in the comprehensive assessment of the risks of temporary insurance.

Institutions should follow generally accepted accounting principles (GAAP) applicable to holdings of life insurance for reporting purposes. Under GAAP, only the amount that could be realized under an insurance contract as of the balance sheet date (that is, the CSV reported to the institution by the insurance carrier, less any applicable surrender charges not reflected by the insurance carrier in the reported CSV) is reported as an asset.

For risk-based capital purposes, an institution that owns general account permanent insurance should apply a 100 percent risk weight to its claim on the insurance company. If an institution owns a separate account policy and can demonstrate that it meets certain requirements, it may choose to apply a "look-through" approach to the underlying assets to determine the risk weight. In no case, however, may the risk weight for the separate account policy (excluding any general account and stable value protection portions, which generally receive a 100 percent risk weight) be less than 20 percent.

Last Updated 12/07/2004 communications@fdic.gov

HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 4-5

Kansas Bankers Association

February 8, 2010

To: House Committee on Financial Institutions

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: HB 2609: Bank Owned Life Insurance

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to provide written testimony today in support of **HB 2609**, which codifies into state law, the Federal bank regulators' Interagency Statement regarding the purchase of and the holding of bank owned life insurance.

State-chartered banks in Kansas have two sets of regulators: the Office of the State Bank Commissioner (OSBC), and a Federal banking regulator – either the Federal Deposit Insurance Corporation or the Federal Reserve Bank. The bank chooses its Federal regulator.

State-chartered banks also have two sets of laws with which to comply – state and federal. As part of a recodification project, the OSBC and the KBA have been reviewing each statute located in the banking code. It became clear to those of us involved in this process that, rather than trying to keep the state code in conformance with the rules found in the Interagency Statement, it would make more sense to make the Statement part of the banking code. This will resolve a lot of confusion that exists today for our state-chartered members.

The bill retains the state-imposed limits on ownership of life insurance per insurance company (15%) and as an aggregate (25%) of the bank's capital, surplus, undivided profits, allowance for loan and lease losses, capital notes and debentures, and reserve for contingency.

Thank you and we would respectfully request that the committee consider **HB 2609** favorably for passage.

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HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 5

CBA
Community Bankers
Association of Kansas

Directed By The Members We Serve

To: House Financial Institutions Committee

From: Shawn Mitchell, President and CEO
Community Bankers Association of Kansas

Date: February 8, 2010

RE: Written Support of House Bill 2609

Chairman Brown and Members of the Committee:

I am Shawn Mitchell, President and CEO of the Community Bankers Association of Kansas (CBA). CBA represents community banks from every corner of Kansas with the vast majority of them being state chartered financial institutions. I appreciate the opportunity to provide written comment in support of House Bill 2609.

House Bill 2609 clarifies some of the language that previous legislation contained and most importantly aligns the legislation with the parameters outlined in the interagency statement of the purchase and risk management of life insurance, federal deposit insurance corporation (FDIC) financial institution letter 127-2004, effective December 7, 2004. This alignment with the language from FDIC is important to our state chartered financial institutions in that they can be assured of compliance with both state regulations and federal regulations without having to constantly refer to two separate sets of rules.

Our state chartered financial institutions have the option of many different types of regulated investments that they may purchase for the benefit of their institutions. House Bill 2609 does not expand that list of available options but it does make the option of purchasing life insurance, from highly rated insurance companies, a more viable option for our financial institutions. As with all investments that a state chartered financial institution may purchase, investing in life insurance is another tool that enhances an institutions earnings in a safe and sound manner.

In conclusion, the Community Bankers Association of Kansas respectfully requests your support for House Bill 2609.

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HOUSE FINANCIAL INSTITUTIONS
DATE: 2/8/2010
ATTACHMENT: 6