

SESSION OF 2002

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2807

As Recommended by House Committee on
Financial Institutions

Brief*

HB 2807 concerns the Kansas Consumer Protection Act and relates to a bank's authority to refuse payment on a check. The bill clarifies that a bank may decline to pay any check, draft, or other form of negotiable instrument or payment order submitted without proof of the consumer's express authorization, notwithstanding language in the Uniform Commercial Code (UCC) to the contrary.

Background

HB 2807 was requested by the Kansas Bankers Association whose representative explained that legislation was enacted in the 2001 Session to provide some protection to consumers solicited by telemarketers and others. That law required those solicitors (suppliers) to obtain from the consumer an "express authorization" to submit a payment order to the bank to pay for the purchased goods. The bill also allowed banks not to pay a payment order submitted without such proof of the consumer's express authorization.

Since passage of the 2001 legislation, bankers discovered that a provision in the Uniform Commercial Code would seem to run counter to the allowance for banks to decline payment. The UCC states that a bank is liable to its customers if it dishonors an item that is properly payable. HB 2807 allows banks to decline payment under the Consumer Protection Act notwithstanding language in the UCC.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill will have no fiscal effect.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

