

MINUTES

SPECIAL COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

November 2-3, 2005
Room 519-S—Statehouse

Members Present

Senator Ruth Teichman, Chairperson
Representative Clark Shultz, Vice Chairperson
Senator Nick Jordan
Senator Vicki Schmidt
Senator Chris Steineger
Representative Eric Carter
Representative Nile Dillmore
Representative Oletha Faust-Goudeau
Representative Dick Kelsey
Representative Rob Olson
Representative Virgil Peck

Staff

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Bruce Kinzie (Uniform Consumer Credit Code Issues), Revisor of Statutes Office
Ken Wilke (Health Issues), Revisor of Statutes Office
Mary Shaw, Committee Secretary

Conferees

John Federico, Humana, Inc.
Kevin Glendening, Administrator, Kansas Uniform Consumer Credit Code, Office of the State Bank Commissioner
Osjha Anderson, Assistant General Counsel, Director of Governmental Relations, LoanMax
David Reid, Midwest Title Loans, Inc., Memphis, Tennessee
Ron Gaches, Executive Director, Gaches, Braden, Barbee, and Associates
Brad Smoot, Legislative Counsel for LoanMax
Phillip Holt, Vice President, Government and Public Relations, Security Finance Corporation
Patrick Hubbell, Citizens Health Care Association (written only)
Douglas Smith, Kansas Medical Center, L.L.C. (written only)
Craig Gaugh, D.D.S., Overland Park, Kansas (written only)
Joseph G. Baba, D.D.S., Wichita, Kansas (written only)
Nita A. Long, Director, Compensation and Benefits, Raytheon Aircraft Co. (written only)
Joe Pucci, Administrator for the Trustees, Plumbing and Pipefitting Industry, Health and Welfare Fund of Kansas (written only)

Matthew Goddard, Vice President, Heartland Community Bankers Association (written only)
Michael Wilson, Associate Superintendent, Topeka Public Schools (written only)
John A. Pila, Consumer (written only)
Pamela Clancy, Partner, Woodard, Clancy, Hernandez, Roth and Day (written only)
Elaine Clampitt, Consumer, Wichita, Kansas (written only)

Wednesday, November 2 Morning Session

Senator Ruth Teichman, Chairperson, called the meeting to order at 10:00 a.m. and welcomed everyone to the meeting. Chairperson Teichman turned the Committee's attention to discussion of the minutes of the last meeting. *A motion was made by Senator Schmidt, with a second by Representative Kelsey, to approve the minutes of the September 26-27, 2005, meeting. Motion carried.*

Chairperson Teichman recognized Ken Wilke, Revisor of Statues Office, who provided an update on questions that were asked at the September 26-27, 2005, meeting. Mr. Wilke addressed the following items.

SB 165—A question was raised by Representative Dillmore about where the figure of 1/10 came from that appeared on page 2, line 3 of the bill ([Attachment 1](#)). SB 165 was based on a South Dakota statute dealing with abuse of health insurance. Mr. Wilke referred to page 3, Section 58-17-59, the corresponding provision in the South Dakota statute. He noted that the South Dakota statute did not provide for 1/10, but instead used the figure of 1/4. Mr. Wilke explained that apparently South Dakota has a much higher ceiling than the amount in 2005 SB 165. He mentioned that this is the most information he could provide and it appeared that the requestor of the bill reduced the South Dakota figure down from 1/4 to 1/10. Mr. Wilke noted that the reason would have to be obtained from the requestor and perhaps was a policy issue.

A question was asked regarding Colorado Revised Statute 18-13-119—Health care providers—abuse of health insurance ([Attachment 2](#)). Mr. Wilke explained that the statute provides for a Class 1 petty offense. On the last page of his attachment, Mr. Wilke referred to the statement, "The penalty for commission of a class 1 petty offense, upon conviction, is a fine of not more than five hundred dollars, or imprisonment for not more than six months other than in state correctional facilities, or both." He noted that a question was raised on how many prosecutions there have been under this statute but that he had been unsuccessful in finding the information. The Colorado penalty would qualify as a Class C misdemeanor under Kansas statutes and a Class B misdemeanor in regard to jail time.

A question also had been raised about whether SB 166 or SB 167 would constitute a health insurance coverage mandate. Mr. Wilke provided copies of three statutes dealing with mandated health benefits ([Attachment 3](#)). He noted that the key statute is KSA 40-2248 which requires, prior to the Legislature's consideration of a bill mandating health insurance coverage, that there be a fiscal impact report. In looking at past mandates, and in his opinion, Mr. Wilke noted that the bill in question would not constitute a mandate within the meaning of the statute. He explained that this does not preclude the Committee from requesting that the person(s) requesting the bills go to the Kansas Insurance Commissioner and obtain a report that is constituted in KSA 40-2249 and 40-2249a. This is a policy decision that the Committee would need to make.

Chairperson Teichman welcomed John Federico, on behalf of Humana, Inc., who provided the Committee with an update on 2005 HB 2366 ([Attachment 4](#)). Mr. Federico explained that the intent of HB 2366 is to allow an insurer the ability to offer more flexible health plan options to employers and consumers, while still maintaining the necessary oversight by the Commissioner of Insurance. Mr. Federico explained that the floor amendment in the House, beginning on page 3 of the bill, is unreasonable and ill-conceived, as it prohibits the termination of individual policies until the end of the policy term, even if for justified reasons. Therefore, the organization feels strongly that it should be removed from the bill. He provided the history of HB 2366. Mr. Federico explained that the bill can best be described as a “product flexibility” bill.

Mr. Federico stated that since the 2005 Legislative Session, Humana has been working with the Insurance Department to find a non-legislative solution that would address the problems related to the current health care cost crisis. He explained a three-year pilot project in his written testimony. Mr. Federico noted that as of November 2, Kansas Insurance Commissioner Praeger has agreed to allow the implementation of the pilot project as described. He explained that there are still details to be worked out, but that the Kansas Insurance Department has taken an important step to provide much needed “relief” to Kansas insurance companies.

Chairperson Teichman welcomed Kevin Glendening, Deputy Commissioner, Division of Consumer and Mortgage Lending, Office of the State Bank Commissioner. Mr. Glendening provided an overview of the Kansas Uniform Consumer Credit Code (UCCC) and the current environment in Kansas ([Attachment 5](#)). He explained that there are by definition only three types of credit that are automatically governed by the UCCC—credit transactions of \$25,000 or less; loans secured by second lien real estate mortgages on residential property (*i.e.*, home equity loans); and certain first lien real estate mortgages that have a high loan to value ratio or interest rate.

In Attachment A of Mr. Glendening’s written testimony, he noted both the growth in the number of companies choosing to obtain a license to offer consumer loans in Kansas, and the number of entities engaged in other types of consumer credit transactions who file notification with their office.

Mr. Glendening explained that while the majority of companies make an honest effort to comply with the laws and utilize good business practices, there are some companies who do engage in deceptive practices. He presented an example in Attachment B of his written testimony of the tangible benefits the UCCC provides to individual Kansas consumers by summarizing the amount of illegal fees and charges recovered on behalf of Kansans through examinations and investigations conducted by the Office of the State Bank Commissioner.

Mr. Glendening explained that the UCCC does not concern itself with any type of business, agricultural, or commercial credit transactions. The UCCC focuses on smaller transactions where credit is extended to individuals for personal, family, or household purposes.

Chairperson Teichman recognized Melissa Calderwood, Principal Analyst, Kansas Legislative Research Department, who presented a staff review of the Uniform Consumer Credit Code and Interest Rates ([Attachment 6](#)). She provided background information and summarized legislative review of the UCCC. Ms. Calderwood also reviewed UCCC pending legislation from the 2005 Legislative Session: HB 2143 and HB 2278.

Staff provided the following written information to the Committee from the National Conference of State Legislatures:

- 1999-2005 Title Loan Legislation, July 7, 2005, National Conference of State Legislatures ([Attachment 7](#)); and
- Payday Lending Laws, April 22, 2005, National Conference of State Legislatures ([Attachment 8](#)).

Chairperson Teichman opened a hearing on HB 2143. Testimony was provided by the following conferees.

Osjha Anderson, Associate General Counsel, Director of Governmental Relations, Anderson Financial Services, Inc., presented an overview of LoanMax ([Attachment 9](#)). She provided information on what LoanMax does, who it serves, why customers use its service, and the consumer protection LoanMax provides. In closing, Ms. Anderson noted that LoanMax has made thousands of loans in Kansas over the past 16 months, which clearly indicates a demand for its product.

Ms. Anderson provided copies of the LoanMax loan application and disclosure form which are attached to her written testimony. The Committee discussed the beacon score.

David Reid, President, Midwest Title Loans, Inc., Memphis Tennessee, presented information on the 15 title loan companies that he operates ([Attachment 10](#)). He noted that Midwest Title has been able to compete with much larger companies because of its policies that encourage repeat business and referrals and because it is one of the lowest-cost title loan lenders in Missouri. He mentioned that he believes Midwest Title can come to Kansas and bring competition and lower costs to the citizens of Kansas.

Mr. Reid noted that Midwest Title's customers are not primarily low income. Most of the customers are low- to mid-level income. He also explained that people come to Midwest Title for small loans and that it does not take a lot of time to get the loan.

Chairperson Teichman welcomed and introduced State Representative Ray Cox, Chairman of the House Financial Institutions Committee.

In response to a question by Chairperson Teichman regarding HB 2143, Mr. Glendening explained that the Office of the State Bank Commissioner is willing to look at other options.

The meeting recessed at 11:30 a.m. for lunch.

Afternoon Session

Chairperson Teichman reconvened the meeting at 1:35 p.m. She welcomed the following conferees who oppose HB 2143:.

Ron Gaches presented testimony in opposition to HB 2143 on behalf of the Kansas Association of Financial Services ([Attachment 11](#)). Mr. Gaches explained that the Kansas

Association of Financial Services opposes the enactment of interest rate caps in the consumer lending market.

Mr. Gaches noted that deregulation of interest rates has allowed consumer finance and mortgage companies the ability to more accurately price risk, allowing consumers with outstanding credit histories to benefit from lower interest rates and allowing consumers who previously were denied credit viable options in the marketplace. He explained that a deregulated interest rate attracts credit to the Kansas market. The direct effect of an interest rate cap would fall most heavily on those who are least able to secure credit in the traditional bank and credit union markets. Mr. Gaches urged maintaining the current deregulated market for interest rates and allow Kansas consumers to continue to receive the benefits of a competitive market.

Brad Smoot, Legislative Counsel for LoanMax, presented testimony in opposition to HB 2143 (Attachment 12). Mr. Smoot explained that the proposal contained in HB 2143 would reverse the policy decision made in 1999 removing interest rate caps on open-ended credit. He noted that LoanMax believes the decision made in 1999 was correct. Mr. Smoot provided selected copies of a study by two Purdue University business school professors entitled, "The Case for Deregulating Interest Rates on Consumer Credit" (Attachment 13).

The Chairperson closed the hearing on HB 2143.

Chairperson Teichman called the Committee's attention to discussion of HB 2278. She welcomed the following conferees and opened a hearing on the bill.

Ron Gaches, representing Security Finance Corporation, testified in support of HB 2278 (Attachment 14). Mr. Gaches noted that his testimony contains a new bill draft. He explained that there are four main changes. The main change is that fees are based on a monthly fee, rather than an interest charge. The last section of Mr. Gaches' testimony contains the Security Financial Corporation Regulatory Contracts.

Phillip Holt, Vice President of Government and Public Relations, Security Finance, presented testimony in support of HB 2278 (see Attachment 14). Mr. Holt explained that Security Finance operates out of Spartanburg, South Carolina. He noted that its product is easily understandable, that Security Finance operates under the Truth and Lending Law, and that it has a safe product for their consumers.

Chairperson Teichman called the Committee's attention to discussion of HB 2143 and recommendations for the Committee Report to the 2006 Legislature. *Representative Carter moved, with a second by Representative Olson, to not recommend HB 2143. Motion carried.* (Tally of vote: 9 ayes, 2 nays)

Chairperson Teichman called the Committee's attention to discussion of HB 2278. She noted that more work needs to be done on Part E of the new bill draft (12-month loan). *Representative Carter moved, with a second by Representative Shultz, to not recommend HB 2278 and to recommend the proposed fresh bill draft (new bill). Motion carried.* (Tally of vote: 9 ayes, 1 nay)

Chairperson Teichman mentioned that the insurance bills will be addressed in the following day's meeting. The meeting recessed at 2:30 p.m.

Thursday, November 3

Chairperson Teichman reconvened the meeting at 9:05 a.m.

Staff provided information regarding the Kansas Health Insurance Mandates, Kansas Legislative Research Department ([Attachment 15](#)), Health Savings Accounts, Kansas Legislative Research Department ([Attachment 16](#)), and State Mandatory Assignment Laws ([Attachment 17](#)).

The following written testimony was received regarding SB 165, SB 166, and SB 167:

- Patrick Hubbell, Citizens Health Care Association, ([Attachment 18](#));
- Douglas Smith, Kansas Medical Center, L.L.C. ([Attachment 19](#))
- Craig Gaugh, D.D.S., Overland Park, Kansas ([Attachment 20](#));
- Joseph G. Baba, D.D.S., Wichita, Kansas ([Attachment 21](#));
- Nita A. Long, Director, Compensation and Benefits, Raytheon Aircraft Company ([Attachment 22](#));
- Joe Pucci, Administrator for the Trustees, Plumbing and Pipefitting Industry Health and Welfare Fund of Kansas ([Attachment 23](#));
- Matthew Goddard, Vice President, Heartland Community Bankers Association ([Attachment 24](#));
- Michael J. Wilson, Associate Superintendent, Topeka Public Schools ([Attachment 25](#));
- John A. Pila, Consumer ([Attachment 26](#));
- Pamela Clancy, Partner, Woodard, Hernandez, Roth and Day, Wichita, Kansas ([Attachment 27](#));
- Elaine Clampitt, Consumer, Wichita ([Attachment 28](#)); and
- Jerry Slaughter, testimony from September meeting, Executive Director, Kansas Medical Society ([Attachment 29](#)).

Chairperson Teichman called the Committee's attention to discussion of proposed health insurance legislation. The Committee made the following recommendations that were to be included in the Final Committee Report to the 2006 Legislature:

- SB 165 - *Senator Schmidt moved, with a second by Representative Olson, to recommend SB 165 unfavorably. Motion carried.*
- SB 166 - *Representative Olson moved, with a second by Representative Kelsey, to report SB 166 adversely. Motion carried.*

- SB 167 - *Representative Olson moved, with a second by Representative Kelsey, to report SB 167 adversely. Motion carried.*

The bills currently are assigned to the Senate Committee on Financial Institutions and Insurance.

Chairperson Teichman mentioned that the discussion of HB 2366 was a progress report. She recognized Melissa Calderwood who presented a memorandum regarding the Committee recommendations for the final report (Attachment 30). Discussion followed. Chairperson Teichman asked that the Committee call Ms. Calderwood if there is anything that should be added to the final Committee report. Senator Schmidt explained that she thought it very important to keep the dialogue on-going regarding cost containment. Staff will send the Committee's final report to Health Policy Authority and other organizations.

Chairperson Teichman thanked the Committee and staff for all of the good work in the Committee meetings.

The meeting adjourned at 9:30 a.m.

Prepared by Mary Shaw
Edited by Melissa Calderwood and
Terri Weber

Approved by Committee on:

December 28, 2005

(date)