

Approved: February 9, 2000  
Date

## MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on January 26, 2000 in Room 527-S of the Capitol.

All members were present except: Representative Carlos Mayans - Excused  
Representative Melvin Minor - Excused

Committee staff present: Dr. Bill Wolff, Legislative Research  
Bruce Kinzie, Office of Revisor  
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Denny Burgess, District Judges Association  
George Barbee, Community Bankers Association and  
Kansas Association of Financial Services  
Representative Gerry Ray  
Kathy Olsen, Kansas Bankers Association  
Linda DeCoursey, Department of Insurance  
Matthew Goddard, Heartland Community Bankers  
Ron Gaches, Farm Credit Council, Inc.  
Roy Worthington, Kansas Land Title Association  
Matthew All, Department of Insurance  
Chuck Stones, Kansas Bankers Association

Others attending: See attached

Chairman Cox opened the floor for bill introductions and recognized **Denny Burgess**, District Judges Association, who requested a bill that would raise the maximum monthly retirement benefits for judges from 70% to 80% of their final average salary, after 25 years of service as a judge. Chairman Cox said he had a request from an appeals court judge, who wants a little more clarification on designation of beneficiaries for KPERS retirement, that would work right into this proposed legislation. It was the consensus of the committee to introduce legislation covering both items.

Chairman Cox recognized **George Barbee**, Community Bankers Association, who requested that two bills be introduced. The first request was to amend the statute that has to do with the holding of land by banks. It grants them more time to dispose of property that had been held for bank use but found to not be needed. **(Attachment 1)** It was the consensus of the committee to introduce the legislation. His second request was a proposed amendment to K.S.A 9-805. The bill would require banks, when filing with the bank commissioner, to list only stockholders owning more than 5%. This would be in line with general corporations being required to list only stockholders that hold more than 5%, when submitting their annual report to the Secretary of State. **(Attachment 2)** It was the consensus of the committee to introduce the legislation.

Chairman Cox recognized **Representative Gerry Ray** who said she has learned, through working with the Consumer Protection Division of the Attorney General's Office, that someone can get your bank account number and withdraw funds from your account, without your authorization. She asked for introduction of legislation that would make this unlawful. It was the consensus of the committee to introduce this legislation.

Chairman Cox opened the hearing on:

### **HB 2677 - Title insurance, deposits for real estate closings:**

#### **Proponents:**

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**Kathy Olsen**, Kansas Bankers Association, said Sub SB 60, dealing with title insurance companies and the regulation of their escrow accounts, was passed last year by the legislature. One section of K.S.A. 40-1137(c) talks about “good funds” and provides that all funds, deposited for real estate closing in excess of \$2,500, must be in one of the forms suggested in the statute. Specifically, that section lists several types of bank checks. After the bill was passed, it came to KBA’s attention that teller’s checks were a type of check commonly used but not included in the statute. Even though the Insurance Commissioner’s office issued a letter stating that they would not be critical of any title insurance company using a teller’s check for depositing good funds, some title companies are not accepting teller’s checks because they’re not mentioned in the law. She requested the committee vote favorably on HB 2677. It simply adds the two words “teller’s checks” into the statute. (**Attachment 3**)

**Linda DeCoursey**, Kansas Insurance Department, said her department did not write the “good funds” portion of the law, however, they did not oppose it. The Kansas Insurance Department, Kansas Land Title Association, and Kansas Association of Realtors worked together on this bill. Her office agrees that it is appropriate to add teller’s checks to the bill. She thanked the committee for having the insight to pass Sub SB 60 last year. Because of this legislation, the Kansas Insurance Department was able to respond decisively to a situation occurring in Wichita whereby approximately \$1.4 million was discovered missing from a title agency. (**Attachment 4**)

**Matthew Goddard**, Heartland Community Bankers Association, said his organization is in favor of the legislation. (**Attachment 5**)

**Ron Gaches**, said Farm Credit Council, Inc., finds itself in a situation similar to the KBA. Following passage of the “good funds” bill, several title insurance agents asked their members throughout the state for some evidence that one of their financial instruments met the criteria identified in Sub SB 60. The Insurance Commissioner’s Office, after hearing an explanation of how the Farm Credit Council was a Federally chartered instrumentality, issued a letter opinion that clarified that the language that appears on page 2, line 10 of the bill, “funds received from government entities”, obviously was intended to include Farm Credit Council, since there was no evidence on the record that their lending practices were not to be included. Mr. Gaches asked the committee to amend the bill to insert “Federally chartered instrumentalities of the United States”. In addition to Farm Credit Council, it would pick up Freddy Mac, Fanny Mae, Sallie Mae, and other similarly situated organizations. Approval of the amendment will assure that the FCC associations like Production Credit Association and Farm Land Bank are included in HB 2677. (**Attachment 6**)

Representative Tomlinson moved to adopt the amendment to the bill. Representative Sharp seconded the motion. The motion carried.

**Roy Worthington**, Kansas Land Title Association, supports the addition of teller’s checks to the definition of good funds provided that such checks offer the same assurance of collected funds as cashier’s checks. Meaning they are not subject to being dishonored due to an insufficient account or a stop payment order. He urged the committee to protect the effectiveness of the present law by ensuring that funds deposited for real estate transactions are collected funds. (**Attachment 7**)

Kathy Olsen assured the committee that there cannot be a stop payment on a teller’s check, it is treated as cash equivalent under the Universal Commercial Code (UCC). Teller’s checks are defined in the code as a draft drawn by a bank on another bank or payable at or through another bank.

Chairman Cox closed the hearing on HB2677 and opened the hearing on:

### HB 2647 - Insurance; prohibiting financing of credit insurance in home loans

#### **Proponent:**

**Matt D. All**, Kansas Insurance Department, said the Insurance Commissioner feels that HB 2647 is a simple straightforward solution to an unnecessary and potentially predatory lending and insurance practice. It bans

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the financing of consumer credit insurance premiums in consumer home loans, which is known as "packing". The practice lies at the intersection of two broader problems which are the overselling and overpricing of consumer credit insurance. These practices take place when the consumers are most vulnerable, at the closing of a consumer home loan. The National Association of Insurance Commissioners (NAIC) recommends that credit life insurance premiums be set so that insurers pay 60 cents in benefits for every dollar of premium collected. In Kansas the loss ratio for credit life insurance is sitting roughly at 30 cents on the dollar. At a recent NAIC meeting, one of the exhibits passed out showed an example of the abuses of the packing of credit insurance. It involved a Kansas consumer. **HB 2647** does not prohibit lenders from selling consumer credit insurance in conjunction with consumer home loans. But lenders would be banned from packing these premiums into consumer home loans that are secured by a consumer's home. (**Attachment 8**)

### Opponents:

**Chuck Stones**, Kansas Bankers Association, said his organization is opposed to the bill. On the surface it seems to protect the consumer. However, it is the consumer who ends up being hurt, especially those who really need this product. He believes that **HB 2647** would effectively eliminate the issuance of credit life insurance on consumer home loans. Most credit life is sold in the form of a single premium. The consumer may either make the payment in a lump sum or finance it. Most choose to finance it, as they find a single payment cost prohibitive. It is very important to remember that credit life is voluntary. It is against the law for a lender to require the consumer to purchase credit life from them as a condition of making the loan. Also, at this very moment, KBA, and credit life insurance companies are in discussions with the Insurance Commissioner as to where those proper loss ratios should be, and how the rates can be adjusted to make them more acceptable. (**Attachment 9**)

**George Barbee**, Kansas Association of Financial Services, appeared in opposition to **HB 2647**. He stressed that single premium credit insurance is completely voluntary. It is not tied to the loan in any manner and disclosures must be made when making the loan. You cannot even talk about insurance until the loan has been approved. The insurance is to pay off the mortgage if the consumer dies, so that the borrower's family can keep the home after there has been a loss. Kansas law already requires full disclosure as well as refunds upon cancellation. Credit insurance is a legitimate and worthwhile financial service. It has been around for 70 years and addresses the problem of being under or non-insured. He urged the committee to report the bill unfavorably. (**Attachment 10**)

**Matthew Goddard**, Heartland Community Bankers Association, testified against **HB 2647**. Credit insurance remains a popular product among borrowers. The most attractive feature is that it repays the insured loan obligation and relieves survivors of any financial obligations or burden. Credit life is not for everyone. It is purchased voluntarily by borrowers. If someone is carrying enough life insurance to cover all necessary expenses upon a death, they probably do not need credit life and shouldn't have to buy it. Mr. Goddard gave an example of the cost of carrying credit life on a 7 year loan of roughly \$10,000. (**Attachment 11**)

Chairman Cox closed the hearing on **HB 2647**.

Chairman Cox said he would entertain a motion on **HB 2677**. Representative Tomlinson made a motion to approve **HB 2677** as amended. Representative Sharp seconded the motion. The motion carried.

The meeting was adjourned at 5:02 p.m.

The next meeting is scheduled for February 2, 2000.