

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 p.m. on March 15, 2004 in Room 527-S of the Capitol.

All members were present except:

Representative Larry Campbell- excused
Representative Rob Boyer- excused
Representative Tom Burroughs- excused
Representative Vaughn Flora- excused

Committee staff present:

Bruce Kinzie, Revisor's Office
Bill Wolff Legislative Research Department
Maggie Breen, Secretary

Conferees appearing before the committee:

Kevin Glendening - Office of State Bank Commissioner
Jeff Witherspoon - Consumer Credit Services, Inc.
Karen Hiller - Housing and Credit Counseling, Inc.

Others attending:

See Attached List.

Chairman Cox opened the hearing on SB 509 - Credit service organizations; inclusion of debt management services.

Proponents:

Kevin Glendening, Office of State Bank Commissioner, said the bill addresses some additional language to our existing Credit Services Organization Act. The law is outdated, woefully inadequate, and doesn't really serve its purpose. **SB 509** is the attempt to update the language, by expanding the definition of what a credit service organization is, in order to address the market place today. It defines practices by stating required and prohibited activities regarding how business with consumers is to be done. Finally, to ensure that laws are complied with, it increases the enforcement tools available to his office. It takes a proactive step that should help to ensure Kansas consumers receive both adequate information, concerning what can and cannot be done in regard to their credit situation, and provides protections against deceptive practices. (**Attachment 1**)

Representatives Grant, Brunk and Cox asked questions.

Kevin said that Chairman Cox asked a question earlier relative to bonding. He said that they require surety bonds on basically everything they license: mortgage people; finance companies; payday lenders; everybody across the board. Based on the most current information they have, the cost of the bonds range from \$5 and \$10 per \$1,000 of coverage. Chairman Cox pointed out that opponents, who could not be present today but have submitted written testimony, have suggested the use of insurance rather than bonds. Kevin said with insurance the "errors and omissions" people just line up to receive the money whereas the bond is payable to his department.

Jeff Witherspoon, Executive Director of Consumer Credit Services, Inc., said his agency currently has about 1,200 clients on a Debt Management Plan. These plans are used by consumers to help avoid bankruptcy and to repay their debt obligations. Last year they helped counsel and educate 8,000 Kansans through financial counseling and education programs. A "new breed" of credit counseling agencies has emerged. These out of state agencies are taking advantage of Kansas consumers. They do this through high fees and inaccurate promises. They do not offer any educational programs or services, yet present themselves as non-for-profit agencies. This bill will help protect Kansans from being taken advantage of. It will also level the playing field. His agency would be allowed to charge a small nominal fee for services. (**Attachment 2**)

Chairman Cox asked Jeff where he received his funding. He said the majority, 70%, of his funding comes

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE at 3:30 p.m. on March 15, 2004 in Room 527-S of the Capitol.

from creditors called a fair share donation, which they receive when they are able to assist clients in paying their bills. They also receive grant money and about 10% from fees.

Karen Hiller, Housing and Credit Counseling, Inc., urged the committee to support **SB 509**. She said she and Jeff are providing true comprehensive nonprofit credit counseling services across the state. Every day her office receives calls from people who are desperate. At least a couple of times a week, they are contacted by folks who have already gotten hooked up with unscrupulous credit counseling people and have already lost money to them. They were already vulnerable or deeply in trouble when they contacted these unscrupulous agencies for help and then they are just been offered a settlement plan or been required to pay a big fee up front. She said they find themselves helpless to help those people who have already been taken advantage of by the bad guys. Her agency actual goes through the clients budget and provides support and follow up sessions as well as education for the client and their family. She spoke in full support of the bill and said Kevin has done a great job in trying to address the problems out there. (**Attachment 3**)

Representative Wilk asked why in Section 1 (b) everyone had to be licensed except an attorney? Karen said she though it was because the prior statute allows attorneys to do this already and that statute is being amended but allowed to stay on the books.

This point was discussed.

Opponents:

John Berglund - Association of Independent Consumer Credit Counseling Agencies (AICCCA) - Written Only (**Attachment 4**)

David C. Jones, Ph. D., AICCCA - Written Only (**Attachment 5**)

Representative Dillmore said it was unfortunate that the opponents couldn't be present because in John Berglund's testimony on page 3, the 4th paragraph, he's talking about not-for-profits not being allowed to compete with for-profits doing any normal business. He really wished the gentleman was here so he could understand what he's saying because we need to be careful about that. It really doesn't make any sense at all to him. What about credit unions and what about co-ops?

Representative Brunk expressed concerned regarding the fees and the big spread in the bond requirements. He was concerned that we might penalize the good citizens who were trying to run good businesses.

Kevin said our fees are the lowest among the surrounding states and the bond requirements were set up with a broad range and the details would be determined by rules and reg. They are looking at what some of the other states have done and will set it up on a tiered system based upon the volume of activity the company is doing.

Chairman Cox closed the hearing on **SB 509**.

He then said he would work **SB 379, Sub for SB 380, SB 392, SB 508 and SB 509**.

SB 379 - Asset forfeiture; notice to lienholder.

Representative Dillmore made a motion to pass SB 379 favorably. Representative Dreher seconded the motion. The motion carried.

Sub for SB 380 - Liens for wrecker and towing services; notice to lienholders.

Representative Wilk made a motion to amend Sub for SB 380 by adding the word "or city" on page 4, line 35, and adding on page 3, item "(d) The provisions of this section shall apply to any motor vheicle which has been impounded as provided in K.S.A. 8-1567, and amendments threreto." Representative Lane seconded the motion. The motion carried.

Representative Grant made a motion to pass Sub for SB 380 as amended. Representative Dillmore seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE at 3:30 p.m. on March 15, 2004 in Room 527-S of the Capitol.

SB 392 - Authorizing the committee on surety bonds and insurance to competitively negotiate certain contracts.

Representative Goico made a motion to pass SB 392 favorably. Representative Grant seconded the motion. The motion carried.

SB 508 - Standard nonforfeiture law for individual deferred annuities

Representative Wilk made a motion to pass SB 508 out favorably and place it on the consent calendar. Representative Lane seconded the motion. The motion carried.

SB 509 - Credit service organizations; inclusion of debt management services.

Representative Dillmore made a motion to pass SB 509 favorably for passage. Representative Humerickhouse seconded the motion.

Representative Dillmore asked about the possibility of having the language in the bill reflect a range of fees and allowing adjustments to be made according to the rate of inflation. He suggested this be done for a certain period of time, in order to give regulators the authority to adjust the fees according to price inflation rather than have them have to come back every couple of years to receive fee increases.

Kevin said he believes that is included in the bill under provision for rules and regulation. Discussion followed.

Representative Wilk made a substitute motion to strike out subsection (b), on page 1, which would eliminate attorney's being exempt from the provisions of the act. Representative Brunk seconded the substitute motion.

Representative Dillmore said he didn't agree that attorneys should be included in the act. They are agents of individual clients and are empowered to handle their legal and financial affairs as directed by them over a much broader course of business than just whether they are going to file bankruptcy for them.

General discussion followed.

Representative Dillmore said he thought the amendment was a "deal killer," that it would be a good way to kill the bill.

Representative Wilk said he didn't agree that it was a deal killer. If that was the case, we'd have to include CPA's, accountants, bankers, and other folks that all have expertise. We're not excluding any of them. It's just attorneys. If we're going to do this and license this, we ought to include them all. He doesn't think the amendment kills the bill, he just thinks it levels the playing field.

The substitute motion failed.

The original motion carried.

Representative Grant made a motion to approve the March 10th committee minutes as written. Representative Wilk seconded the motion. The motion carried.

Meeting adjourned at 4:34 p.m.

The date of the next meeting is undetermined.

Since the committee did not meet again, the minutes were sent to committee members asking for additions or corrections by March 26th, with the understanding that if none were received they would be considered approved as written. None were received.