

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 a.m. on February 24, 2004 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Bill Wolff, Legislative Research
Ken Wilke, Revisor Statutes Office
Nancy Shaughnessy, Committee Secretary

Conferees appearing before the committee:

Whitney Damron, KS. Payday Loan Assoc.
Bud Burke, Comm. Financial Serv. Assoc.
Kevin Glendening, State Banking Commission
Pat Leonard, Pres. KS. Payday Loan Assoc.
Malinda Lewis, El Centro
Jarrod Forbes, Kansas Insurance Department
Bill Sneed, State Farm Insurance

Others attending:

See Attached List.

The Chair asked for a motion to approve the minutes from Feb. 3rd, 4th and 5th, Senator Brungardt moved, Senator Barnett seconded. Motion passed.

The Chair opened the hearing for **SB 439--Uniform Consumer Credit Code; providing for maximum amount and flat fee for payday loans.**

Whitney Damron, spoke as a proponent of the bill. (Attachment 1) Two changes to current payday loan statutes: 1) Reduce the maximum loan from \$860 per transaction to \$500 and 2) eliminate the stair-stepped cap on payday loans and replace it with a flat rate maximum of \$15.00 per \$100 loaned. The purpose of this change is to provide access to loans that are being requested by the consumer, but which are either not being made available due to increased risk of losses or are being provided through multiple payday lenders or fee-splitting by single payday loan licenses.

Senator Teichman inquired about Mr. Damron's comment regarding **HB 2685--Payday loans, concerning the regulation thereof**. She wanted to know why the provisions put in the Senate bill were not in the House Bill. Mr. Damron replied that the house bill was the State Bank Commissioner's bill and that the Payday Loan Assoc. had met with Mr. Glendening on the possibility of seeking an amendment, while not objecting to the rate issue, the banking commission feels it is a policy issue for the legislature and not their position to make those requests.

Senator Barnett questioned the concern of the Association that one of the issues was that consumers could not access enough money on a loan, yet they are asking that the max loan be reduced from \$860 to \$500.

Mr. Damron replied that the loans are designed to help people get from one payday to the next and it's a rarity that larger amounts are required.

Bud Burke, testified as a proponent of **SB439**. His purpose in testifying was to educate the committee regarding the purpose of the Payday Loan Association. (Attachment 2)

Senator Teichman asked about how the industry is regulated? The bank Commission's office is in charge of regulating the industry.

Senator Barnett wanted to better understand the math and asked questions about the borrowing fees in current law and in the new request. In current law \$15 would be the charge for a \$100 loan. If a customer borrows \$300, **SB439** would propose a \$45 fee. Is there a trend in the business that more and more

CONTINUATION SHEET

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE at 9:30 a.m. on February 24, 2004 in Room 234-N of the Capitol.

people are coming in for the increased loan amounts?

Mr Burke responded that \$100 was proving to not be sufficient for a person who needed a car repair, etc. The customer who is being loaned a \$100 only, because it is not profitable for the lender to do more, is going to other stores and borrowing like amounts.

Kevin Glendening, State Banking Commissioner's office appeared as a neutral conferee providing information on the industry. (Attachment 3) The number of payday lending operations has increased 1200% in the last ten years.

Pat Leonard, President of the Ks. Payday Loan Assoc. and represents approximately 25 % of the stores within the State. Mr. Leonard is happy with the laws in Kansas which prevent the loans from rolling over and creating a circle of debt for customers. He outlined the rate fees in surrounding states.

Senator Teichman questioned Mr. Damron on what appears to be adversarial to the consumer, based on the fee rates being proposed.

Mr. Damron agreed that the percentage rates looked excessive based on annual rates, but they are generally very short term loans to resolve immediate problems for which consumers have little or no alternatives to solve problems.

Senator Barnett invited Malinda Lewis of El Centro, Inc. to comment on thoughts she might have from the consumer standpoint. She testified that they do not believe that the industry be put out of business, but would like it noted that the Association only represents 25% of the industry and that concerns them about what the other 75% are doing.

The Chair closed the hearing on **SB439**.

The Chair then stated that there were two bills that she wished to work which had been previously discussed. The first one being **SB509–Credit service organizations, inclusion of debt management services**. The bill is not controversial and only needed to have some language changes due to some duplication. On pg. 6 line 23 the language referring *to any customer or related interest* is a duplication of language in the previous sub-section and will be deleted. On pg. 14 in line 3 after Attorney General *the county or district attorney will be included as those who can bring an action*. In line 18, after the word organization, the phrase *under the Kansas Credit Service Organization* is a doublet and will be deleted..

Senator Adkins made a motion to accept the bill with changes indicated. Senator Steineger seconded. Motion passed.

The Chair then asked for a motion to re-consider **SB 347–Prohibiting counting an insurance related inquiry as an insurance claim**

Senator Buhler made a motion to reconsider the bill. Senator Steineger seconded. Motion passed.

Senator Teichman, because of the closeness of the vote, asked the industry reps and the KID to meet and determine if they could come any closer on acceptable language to both. She asked for the two groups to report back to the committee.

Jarrod Forbes, Kansas Insurance Department, stated that the Commissioner has been willing to discuss terms and make some technical changes. She is not willing to bend on the collection of the information which is being used against consumers. She is standing firm on how that information is being used and believes that it is not in the best interest of the consumer.

The Chair asked that the Technical amendments be specified. Mr. Forbes indicated that they are open to change in the term consumer to insured. The Chair continued to question the conferee about specific amendments.

CONTINUATION SHEET

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE at 9:30 a.m. on February 24, 2004 in Room 234-N of the Capitol.

Senator Helgerson asked if the groups had met and if they had any kind of written information to submit to the Committee.

Mr. Forbes responded that the central issue was not going to change for either group and that the minor technical amendments had not been brought to the Committee.

Senator Buhler asked the Chair if she intended to make the same inquiries of the Industry reps.

She responded that she did..

Bill Sneed of State Farm Insurance testified that the industry reps had made several attempts to continue working on language with the KID. The Department had made as many changes as possible and was not going to change their position on the reporting of information. He also stated that the bill was flawed from a technical point in that there are no definitions. It is a poorly drafted bill and the industry reps have no need to fix the Department's bill for them.

The Chair then asked Mr. Sneed to enlighten the Committee again regarding the changes in the information that the industry is wanting.

Mr. Sneed, speaking for State Farm only indicated that in his testimony he had defined inquiry, defined consumer reporting agency, and defined what could or could not be done with an inquiry.

The Chair then declared her intention to ask for the question again to determine what the desire of the Committee was on the Bill.

Senator Adkins made a motion to amend language from consumer to insured and report the bill out favorably. Senator Steineger seconded. Motion passes.

Senator Barnett stated that he would like to see some compromise and can see both sides of the situation and would like to offer a substitute motion.

Line 15 of the bill and starting with B) *consumer reporting agency means any person who for monetary fees, dues or on a cooperative nonprofit basis regularly engages in full or in part in the practice of assembling or evaluating information on consumers for the purpose of furnishing consumer reports to third party.* And the amendment would add C) *an insured under a homeowner insurance policy, no inquiry on any property real or personal shall be adversely reported by an insurer to a consumer reporting agency unless and until such inquiry constitutes a formal claim filed by the insurer, not the consumer. An additional line would add: and such inquiry is not related to any property or liability loss and no damages have occurred to the insured property. Nothing in this act should be construed to prohibit or otherwise restrict the insured from reporting information to any regulatory agencies, law enforcement or fraud reporting agencies as otherwise allowed by law.*

Senator Barnett stated that this was a compromise position may not be perfect but if it can work through the process and move the bill out he would like to see it accepted. He is more comfortable with the substitute motion than the current language.

Senator Buhler seconded the substitute motion.

Senator Adkins stated that this substitute was a compromise in name only and completely guts the bill. The point of the bill is for me to be able to call my insurance agent and ask about a possible claim. What concerns him is that an inquiry will result in an insured person being penalized as having an adverse report that will affect their ability to insure should they choose to self-insure that particular loss. This substitute requires policyholders to be made liars when they call their agents and he thinks that is a relationship that should be protected and agents and policyholders should be encouraged to talk about this issue. Senator Atkins feels that the Committee should take a strong position as it comes out of the Senate knowing that the bill will be watered down eventually. And if the strongest position is not taken out of Committee this bill will eventually be gutted. The fact that the insurance industry and Commissioner can't reach a compromise is okay and somewhere the consumer has to be considered. The industry

CONTINUATION SHEET

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE at 9:30 a.m. on February 24, 2004 in Room 234-N of the Capitol.

cannot always have their way.

Senator Steineger added that he concurs with Senator Adkins comments and knows that the bill will have many more hoops to go through and will be watered down.

Senate Buhler wanted to clarify that everyone needs to keep in mind that the agent is not working for anyone other than the company he represents and the policyholder might not always be his/her primary concern.

The chair then asked for a vote on the substitute motion. Motion fails.

Back on the original motion to move the bill out favorably with the amendment to offer to substitute the word consumer for insured. Chairperson called the question and then asked for a vote, as the chair was in doubt. Three in favor of moving the bill out,(Senators Adkins, Steineger and Helgerson) five opposed(Senators Buhler,Corbin,Barnett,Brungardt,and Salmans) to moving the bill out. The motion fails.

Meeting adjourned at 10:40 a.m.

Next Meeting scheduled for March 2, 2004