

Approved: March 10, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:08 a.m. on March 9, 1993 in Room 529-S of the Capitol.

Members present: Senators Corbin, Hensley, Lawrence, Moran, Petty, Praeger, and Steffes.

Committee staff present: William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: William Caton, Consumer Credit Commissioner

Others attending: See attached list

Senator Moran made a motion, seconded by Senator Corbin, to approve the minutes of the meeting of February 24, 1993 as submitted. The motion carried.

The hearing was opened on **HB 2197**--UCCC, loan finance charges for certain loans. Bill Caton, Consumer Credit Commissioner, appeared as a proponent of this legislation. (Attachment #1.) Mr. Caton explained that this legislation, commonly known as the payday loan bill, was originally introduced during the 1992 Session but failed in the House of Representatives. Mr. Caton further advised that this bill allows the Consumer Credit Commissioner to regulate the check cashing industry and provides that if checks do not clear the bank, no civil penalties apply as the transaction is a loan. In response to Senator Steffes' question, Mr. Caton stated that there are 19 licensed check cashing business in Kansas and that this bill, if enacted, would require no additional staff to perform the oversight functions. Senator Bond requested that Mr. Caton explain each provision of the bill, which he did. Mr. Caton informed the committee that he has received only positive response from those engaged in this activity since the bill will allow them to make a reasonable profit. Mr. Caton also advised, in response to Senator Steffes, that the check cashing businesses are usually located near military bases.

Fred Carman, Revisor, pointed out three technical amendments needed. There being no further questions and no other conferees, the hearing on **HB 2197** was closed. Senator Praeger made a motion to amend the bill as recommended by Mr. Carman. Senator Moran seconded the motion. The motion carried.

Senator Steffes moved to recommend the bill favorably as amended. The motion was seconded by Senator Corbin. The motion carried. Senator Hensley will carry the bill.

The hearing was opened on **HB 2198**, adjustment of dollar amounts for consumer loans, finance charges. Consumer Credit Commissioner Caton also appeared to testify in favor of this legislation. (Attachment #2.) This bill would amend the section of the Kansas Uniform Consumer Credit Code to change the formula used to calculate the amount of principal upon which the maximum allowable interest rate may be charged. In response to Senator Bond's request, Mr. Caton clarified the intent of the bill. There were no further questions and no other conferees; the hearing was closed. Senator Steffes made a motion to pass the bill and place it on the Consent Calendar. The motion was seconded by Senator Moran. The motion carried.

The hearing was opened on **HB 2199**, UCCC, definition of credit card. Mr. Caton also testified in favor of this bill. (Attachment #3.) Mr. Caton explained that the Attorney General's office has indicated that the word "arrangement" in the existing definition is not consistent with federal Truth in Lending Regulation Z and should be amended. In response to Senator Steffes' question regarding whether this definition has been used to take advantage of the consumer, Mr. Caton advised that, although the practice is not wide-spread, it does occur and this bill would prohibit such abuses. Mr. Carman informed the committee that this bill and **HB 2465**, also scheduled for hearing at today's meeting both amend the same section of the UCCC.

The hearing was opened on **HB 2465**, UCCC computation of finance charges. Bill Caton, Consumer Credit Commissioner, also testified as a proponent of this legislation. (Attachment #4.) Mr. Caton advised that passage of this legislation will prohibit lenders from using pre-computed contracts after January 1, 1994, as the use of pre-computed contracts now penalize the consumer for pre-payment. Senator Steffes stated that he

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:08 a.m. on March 9, 1993.

agrees with the intent of the bill. Mr. Caton informed the committee that he had received no adverse feedback from lending institutions. There were no further questions or conferees; the hearing was closed.

Senator Petty made a motion, seconded by Senator Corbin, to amend **HB 2199** into **HB 2465**. The motion carried.

Senator Steffes made a motion to technically amend the bill to adjust the effective dates contained in both bills. Senator Petty seconded the motion. The motion carried.

Senator Lawrence moved to pass the surviving bill, **HB 2465**, favorably as amended. The motion was seconded by Senator Petty. The motion carried.

The committee adjourned at 9:37 a.m.

The next meeting is scheduled for March 10, 1993.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 3/9/93

[illegible]



KANSAS

Office of CONSUMER CREDIT COMMISSIONER

Joan Finney
Governor

Wm. F. Caton
Commissioner

March 9, 1993

TESTIMONY ON HOUSE BILL 2197

by: Bill Caton, Commissioner

HOUSE BILL 2197 WILL:

LOWER the cost of money to the consumer. Presently, the check cashing industry has limited the proceeds to \$25, which makes consumers do multiple transactions. A consumer who needs \$100 is forced to make multiple transactions at a higher cost than this bill permits.

PROHIBIT the lender from collecting civil penalties for a worthless check. This bill specifically prohibits any additional charges for bad checks except for one charge defined in UCCC (\$10 to \$30). No court costs, third party collection fee, or civil penalties may be assessed. (see chart on reverse side)

ALLOW legitimate businesses to operate with a reasonable profit margin. The availability of this kind of loan from supervised lenders will discourage undesirable and possibly illegal businesses. \$15 for a \$100 loan does NOT provide exorbitant profits when the amount of risk and costs of collection are taken into consideration.

PROVIDE a simple mechanism to supervise this industry. This bill requires lenders to be licensed under the Uniform Consumer Credit Code and provides the Consumer Credit Commissioner a Statute that will be easy to enforce. All other provisions of the Code must be complied with, which includes disclosure of interest rates.

GIVE the Legislature an opportunity to be sensitive and responsive to Kansas consumers of small means who are sometimes unable to budget properly between paychecks. Their alternatives are not very pleasant when they have a week to go before payday and have NO MONEY to live on. This bill provides the best alternative.

Senate File 3/9/93

SCENARIO FOR CHARGES ON RETURNED CHECKS

\$ OF CHECK	AVERAGE BANK CHG	AVERAGE RETAIL CHG	AVERAGE COLL CHG	TOTAL	COURT EXPENSES	CIVIL PENALTY	TOTAL
\$25	\$20	\$15	\$20	\$80	\$25	\$100	\$205
\$50	\$20	\$15	\$20	\$105	\$25	\$150	\$280
\$75	\$20	\$15	\$20	\$130	\$25	\$225	\$380
\$100	\$20	\$15	\$20	\$155	\$25	\$300	\$480

PAYDAY LOAN COSTS

CASH RECEIVED	LOAN CHARGE	TOTAL
\$25	\$7.50	\$32.50
\$50	\$10.00	\$60.00
\$75	\$12.50	\$87.50
\$100	\$15.00	\$115.00

60-2610. Civil liability for worthless check. (a) If a person gives a worthless check, as defined by subsection (g), the person shall be liable to the holder of the check for the amount of the check, the incurred court costs and the service charge and the costs of collection, including but not limited to reasonable attorney fees, plus an amount equal to the greater of the following:

- (1) Damages equal to three times the amount of the check but not exceeding the amount of the check by more than \$500; or
- (2) \$100.

The court may waive attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check.



KANSAS

Office of CONSUMER CREDIT COMMISSIONER

Joan Finney
Governor

Wm. F. Caton
Commissioner

March 9, 1993

TESTIMONY FOR HOUSE BILL 2198

by: Bill Caton, Commissioner

HB 2198 is an amendment to the Kansas Uniform Consumer Credit Code. This amendment will change the formula that is used to calculate the amount of principal that the maximum allowable interest rate may be charged on. The original strategy of this section of the code was to control finance charges by limiting the amount a set interest rate can be charged on rather than changing interest rates. This formula was designed to allow for inflationary adjustments every other year if the Consumer Price Index (CPI) had a 10% change.

The formula used 1974 as a benchmark when calculating the change in CPI. Below is a chart showing the history of the changes in these amounts and the date of change. With the double digit inflation of the late 1970s and early 1980s, CPI has skyrocketed. This has caused smaller increases in CPI to trigger a 10% increase in the dollar amount. The recent 10% increase was triggered by only a 3% in CPI.

This requested amendment will change the benchmark date from 1974 to the date the last change was made. This will effectively correct this problem. Please consider approving this request as it will make an adjustment that is equitable to the consumer.

History of Maximum UCCC loan rates

(Alternate 18%)	36%	21%	14.45%
	on first	on next	over
Jan. 1, 1975	\$300	\$1000	\$1300
July 1, 1978	360	1200	1560
July 1, 1980	420	1400	1820
July 1, 1982	540	1800	2340
July 1, 1984	570	1900	2470
July 1, 1986	600	2000	2600
July 1, 1988	630	2100	2730
July 1990	690	2300	2990
July 1992	780	2600	3380

Senate 7141
3/9/93



KANSAS

Office of CONSUMER CREDIT COMMISSIONER

Joan Finney
Governor

Wm. F. Caton
Commissioner

March 9, 1993

TESTIMONY ON HOUSE BILL 2199

by: Bill Caton, Commissioner

HB 2199 amends the definition of "credit card" Kansas Uniform Consumer Credit Code. This amendment is necessitated by recent requests for clarification. The Attorney General's Office has indicated that the word "arrangement" in the existing definition is not consistent with federal Truth in Lending Regulation Z and should be amended accordingly.

Several creditors have used this definition to charge annual participation fees, cash advance fees, over the limit fees, and transaction fees on open end lines of credit. These fees were designed for credit card lines and a prepaid finance charge was designed for other types of credit lines. This amendment will clarify the definition and dispel any confusion. Please consider this amendment favorably.



KANSAS

Office of CONSUMER CREDIT COMMISSIONER

Joan Finney
Governor

Wm. F. Caton
Commissioner

TESTIMONY FOR HOUSE BILL 2465
BY: BILL CATON, COMMISSIONER
CONSUMER CREDIT

Effective January 1, 1994, House Bill 2465 will require all consumer loans and consumer credit sales to have finance charges figured on an actuarial method rather than a pre-computed method. These amendments to the Kansas Consumer Credit Code will have a positive effect on consumers as the pre-computed method of calculating finance charge does not give equitable treatment in the event of a substantial prepayment.

Pre-computed interest calculation assumes that all payments will be made on the due date and the interest is calculated at the beginning of the loan and added to the principal amount. When payments are made, they are inclusive of principal and interest. If the loan is paid off early, the refund is figured on the amount of time remaining on the loan and NOT on the unpaid balance. This method would be accurate if EVERY payment is made for the exact amount on the exact due date.

If a consumer prepays a substantial amount towards the balance, a pre-computed contract does not give the consumer full advantage of the prepayment. An example of this situation occurs frequently on vehicle loans that have insurance physical damage payments applied to the loan versus making repairs to the vehicle. Many times hail damage is not repaired and insurance payments are applied to loans. Also, many prudent consumers prepay loan payments if money is available. One situation came to our attention this fall when a Wichita consumer prepaid \$5,000 on a \$10,000 vehicle loan in the 3rd month of the contract due to hail damage on the vehicle. This consumer continued to make the normal scheduled payments for several more months and paid the loan off in full. The pre-computed calculation of interest on this loan was over \$1,100 more than the actuarial method.

The majority of creditors have already discontinued the pre-computed contracts. Those creditors that still use the pre-computed method cannot give a good economic reason for the continued use of these contracts. Prior to the availability of calculators that have financial function abilities, pre-computed contracts were prevalent. Today, there are inexpensive calculators available to all businesses that are capable of computing principal and interest for contracts.

Delaying the effective date of this change until January 1, 1994 allows all creditors now using pre-computed contracts sufficient time to convert their systems and forms to the actuarial method. Please consider adopting this change as it provides progressive and needed reforms in interest calculation methods.