

Approved: Jan 24 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson William Bryant at 3:30 p.m. on January 18, 1994 in Room 527-S of the Capitol.

All members were present except:

Committee staff present: William Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Larry Magill, Kansas Independent Insurance Agents
Sally Thompson, State Treasurer
Jim Maag, Kansas Bankers Association

Others attending: See attached list

Representative King explained proposed legislation which would allow free-standing trust companies to set money aside for burials (Attachment 1).

Representative Helgerson moved that the proposal be introduced into legislation. Motion seconded by Representative Cox. Motion carried.

Larry Magill, Kansas Independent Insurance Agents, appeared before the Committee with a request for legislation which would include insurance agency management in the continuing education statutes but with no more than three CEU's being allowed for that subject (Attachment 2).

Representative Cox moved that the proposal by Mr. Magill be introduced into legislation. Motion seconded by Representative Crabb. Motion carried.

Final Action on SB 393: Disposition of Unclaimed Property

Sally Thompson, State Treasurer, reported on meeting with the banking and money institutions and the consensus they have reached regarding SB 393. 32 states have an audit function which exempts no one. Extensive training of auditors will become part of the program when SB 393 is passed. Supervising agencies are FDIC, OCC, OTS, Insurance Commissioner's Office, and NCUA. The proposed amendments are exceptions to the statute (Attachment 3).

Jim Maag, Kansas Bankers Association expressed agreement to the proposed exemption amendments stating that they were the most practical way to solve the audit requirement. Banking institutions will be notified to comply with the act. The Revisor of Statutes Office will make the necessary technical changes to the proposed legislation.

Representative Sebelius moved to amend SB 393 to include the proposals from the State Treasurer's Office. The motion was seconded by Representative Gilbert. Motion carried. Representative Cornfield asked to be recorded as a "no" vote.

Representative Cox moved to pass the bill as amended favorably. Motion seconded by Representative Correll. Motion carried. Representative Cornfield asked to be recorded as a "no" vote.

Representative Sebelius moved for the approval of the minutes of the January 12 and 13 meetings. Representative Correll seconded the motion. The motion carried.

The meeting adjourned at 3:50 p.m. The next meeting is scheduled for January 19, 1994.

GUEST LIST

COMMITTEE: Financial Institutions & Insurance DATE: 1-18-94

[illegible]

For Introduction

As you and I have previously discussed, back in 1989 when the legislature made significant amendments to the statutes pertaining to trust companies, references to "trust companies" were inadvertently deleted from a number of statutes pertaining to "cemetery merchandise contracts" in K.S.A. 16-320, et. seq. and "cemetery corporations" in K.S.A. 17-1311, et. seq. These statutes pertain respectively to the establishment of trusts whereby consumers can pay for various types of cemetery merchandise in advance; or where a percentage of the purchase price for a burial lot can be designated in trust for the cemetery's permanent maintenance fund for future use. In both situations, prior to 1989 trust companies had the power granted under these statutes to serve as trustee for these purposes. However, in 1989 the references to trust companies in K.S.A. 16-322, 16-324, 17-1311, and 17-1312 were deleted. These statutes, as currently written, give Kansas state banks the power to serve as trustees in these situations, but not trust companies.

The statutes pertaining to cemetery merchandise contracts and cemetery corporations are not found in the statutes pertaining to banks; therefore, trust companies cannot utilize the provisions of K.S.A. 9-2103(a) which allow them to "act in any fiduciary capacity and to perform any act as a fiduciary which a Kansas state bank may perform under any provision of the banking or insurance laws of this state...." Nevertheless, since the intent of the 1989 amendments pertaining to trust companies was to put trust companies on a level playing field with banks so far as the exercise of fiduciary powers was concerned, there is no reason for the references to trust companies to have been deleted from K.S.A. 16-322, 16-324, 17-1311 and 17-1312.

Although K.S.A. 9-2101 enacted in 1989 prohibits trust companies chartered under the 1989 amendments from accepting deposits, the funds placed in trust for cemetery merchandise and cemetery maintenance funds are not "deposits" as contemplated by K.S.A. 9-2101. Instead, they are merely funds placed in trust that are no different from the other funds placed in trust that trust companies manage every day pursuant to their fiduciary responsibilities.

I am, therefore, enclosing proposed revisions to the above referenced statutes that hopefully can be enacted pursuant to the "legislative oversight" procedures you and I have previously discussed. We have essentially reinserted the words pertaining to trust companies in the statutes as they appeared before the 1989 amendments with the exception that since trust companies cannot accept deposits, there is no need for them to be federally insured, and, therefore, references to "federally insured trust companies" found in the previous version of K.S.A. 16-324 have been deleted by repositioning the words "trust company" in that statute.

House FD-1

Attachment 1

Jan 18, 1994

16-322. Cemetery merchandise contracts; trust fund; requirements; disbursements. (a) The cemetery corporation shall establish and maintain a cemetery merchandise trust fund with a bank, trust company, or savings and loan association having trust powers. A copy of each contract or a written notice containing all relevant information regarding such prepaid merchandise contract for which deposits are made shall be furnished financial institutions. The institutions shall serve as trustees for the purposes of this act. Deposits to such fund shall be carried in the name of the cemetery corporation and the amounts deposited therein may be commingled, but the accounting records shall establish a separate account for each prepaid merchandise contract and shall show the amounts deposits, and the income or loss accruing thereon, with respect to each prepaid merchandise contract. The trustee shall reimburse the cemetery corporation for all income taxes and costs incurred with respect to the operation of such fund, and the trustee shall be reimbursed from the earnings of such fund for all reasonable costs incurred in serving as trustee, including a reasonable fee for its services. The taxes and costs shall be paid from earnings of the fund prior to the allocation of earnings to the individual accounts.

(b) No part of the moneys required by K.S.A. 16-321, and amendments thereto, to be held under a prepaid merchandise contract shall ever be used for any purpose other than investment as authorized by K.S.A. 16-324, and the amendments thereto, until delivery of the merchandise is made. With respect to any cemetery merchandise which is not affixed to real property, delivery shall occur when physical possession is tendered to the purchaser, and a bill of sale or similar instrument of title is delivered to the purchaser. With respect to cemetery merchandise which is affixed to realty, delivery shall occur when construction or permanent installation of the merchandise has been completed. Upon delivery of the cemetery merchandise, the cemetery corporation shall present the trustee with a verified statement that delivery has been made. Upon such presentation the trustee shall pay to the cemetery corporation the amount of any funds held in trust with respect to the cemetery merchandise delivered and no further deposits shall be made with respect to such cemetery merchandise.

16-324. Same; trust fund established in trust company or federally insured institution authorized to do business in state. A cemetery merchandise trust fund established pursuant to K.S.A. 16-321 or 16-322, and amendments thereto, shall at all times be in the custody of a trust company or a federally insured bank or savings and loan association which is authorized to do business in this state. Any cemetery merchandise trust funds may be invested, reinvested, exchanged, retained, sold and managed in the manner and subject to the requirements of K.S.A. 17-5004, and amendments thereto, and, at the election of the trustee, as a part of common trust funds.

17-1311. Permanent maintenance fund; requirements; use. Such corporation shall maintain, in a trust company located within the state of Kansas, a state or national bank located within the state of Kansas or a federally chartered savings bank located within the state of Kansas, a percentage of the purchase price of each burial lot sold by it, or any payment thereon, not less than 15% thereof, for the permanent maintenance of the cemetery within which the burial lot lies, but the total amount set aside shall not be less than \$25 for each burial lot at the time of conveyance of such lot. Deposits to the permanent maintenance fund shall be made within 45 days of receipt of moneys for which deposits are required to be made. Moneys placed in such fund under the provisions of K.S.A. 17-1308, and amendments thereto, shall be credited for the purposes of fulfilling such requirement. Moneys in such fund may be held and invested to the same extent as is provided in K.S.A. 17-5004, and amendments thereto, but the total amount of money invested in any mortgage upon real property shall not exceed an amount equal to 75% of the market value of such property at the time of such investment. The income of the permanent maintenance fund shall be used exclusively for the maintenance of the cemetery. No part of the principal of the fund shall ever be used for any purpose except for such investment. In no event shall any loan of the funds be made to any stockholder in such corporation. The treasurer of such corporation may deposit, to the credit of such fund, donations or bequests for the fund and may retain property so acquired without limitation as to time and without regard to its suitability for original purchase. As used in this section, the term "burial lot" means a plotted space for one grave. Such maintenance shall include, but not be limited to, mowing, road maintenance and landscaping, but shall not include administrative costs, expense of audits or the portion of any capital expense for equipment used to maintain portions of a cemetery not sold for burial purposes or in use for grave sites.

17-1312. Permanent maintenance fund; custody, requirements; limitations. The permanent maintenance fund required to be established by K.S.A. 17-1311, and amendments thereto, shall at all times be in the custody of a trust company located within the state of Kansas, a state or national bank located within the state of Kansas, a state or federally chartered savings and loan association located within the state of Kansas or a federally chartered savings bank located within the state of Kansas. Any such trust company, bank, savings and loan association or federally chartered savings bank with which the custody of a permanent maintenance fund has been entrusted may invest, reinvest, exchange, retain, sell and manage the moneys within such fund. If the treasurer of any cemetery corporation shall entrust the custody of the permanent maintenance fund to a savings and loan association or associations or federally chartered savings bank or banks, the amount of moneys in the custody of any such association or savings bank shall not exceed the amount for which deposits in such savings and loan association or savings bank are insured by the federal savings and loan insurance corporation or other insurer approved by the state

commissioner of insurance. If the treasurer of any cemetery corporation shall entrust the custody of the permanent maintenance fund to a bank or banks or federally chartered savings bank or banks, the amount of money in the custody of any such bank or savings bank shall not exceed the amount for which deposits in such bank or savings bank are insured by the federal deposit insurance corporation or other insurer approved by the state bank commissioner. Such trust company, bank, savings and loan association or federally chartered savings bank may serve without bond and may be reasonably compensated for its services out of the income of the fund. It shall be a provision of any such trust agreement that no moneys other than income from the trust, shall be paid over to the cemetery corporation by the trustee, except upon the written permission of the secretary of state.

40-240f. Continuing education requirements of individual agents; agent to report and keep record of courses attended; penalties for failure to comply; applicants for relicensure; requirements not applicable to inactive agents; approval and certification of courses; fees for certification; course provider to provide certificates of attendance and maintain records of attendees; course value not contingent upon passage of examination; recognition of independent study; nonresident agents, reciprocity. (a) For purposes of this section:

(1) "Biennial due date" means March 31, 1991, and March 31 of each odd-numbered year thereafter.

(2) "Approved subject" or "approved course" means any educational presentation involving insurance fundamentals, insurance law, insurance policies and coverage, insurance needs, insurance risk management, or other areas, which is offered in a class, seminar or other similar form of instruction, and which has been approved by the commissioner under this section as expanding skills and knowledge obtained prior to initial licensure or developing new and relevant skills and knowledge.

(3) "C.E.C." means continuing education credit. One C.E.C. is 50 to 60 minutes of each clock hour of instruction or the C.E.C. value assigned by the commissioner. The C.E.C. values shall be assigned in whole units. The commissioner shall assign a C.E.C. value to each approved subject on a case-by-case basis.

(4) "Biennium" means the period beginning on the effective date of this section and ending on March 31, 1991, and each two-year period thereafter.

(5) "Inactive agent" means a licensed agent who presents evidence satisfactory to the commissioner which demonstrates that such agent will not do any act toward transacting the business of insurance for not less than two but not more than six years from the date such evidence is received by the commissioner. Such additional periods may be granted by the com-

insurance agency management

House F.D.I.

Attachment 2

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missioner upon further presentation of evidence satisfactory to the commissioner.

(b) (1) Every licensed agent who is an individual and holds a property or casualty qualification, or both, shall biennially obtain a minimum of twelve C.E.C.'s in courses certified as property and casualty.

No more than three C.E.C.'s shall be in insurance agency management.

(2) Every licensed agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete twelve C.E.C.'s in courses certified as life, accident and health, or variable contracts.

No more than three C.E.C.'s shall be in insurance agency management.

(3) Every licensed agent who is an individual and holds a crop only qualification shall biennially obtain a minimum of two C.E.C.'s in courses certified as crop under the property and casualty category.

(4) Every licensed agent who is an individual and is licensed only for title insurance shall biennially obtain a minimum of four C.E.C.'s in courses certified by the board of abstract examiners as title under the property and casualty category.

(5) Every licensed agent who is an individual and holds a life insurance license solely for the purpose of selling life insurance or annuity products used to fund a pre-arranged funeral program and whose report of compliance required by subsection (f) of this section is accompanied by a certification from an officer of each insurance company represented that the agent transacted no other insurance business during the period covered by the report shall biennially obtain a minimum of two C.E.C.'s in courses certified as life or variable contracts under the life, accident and health, or variable contracts category.

(c) Individual agents who hold licenses with both a property or casualty qualification, or both, and a life, accident and health, or variable contracts qualification, or any combination thereof, and who earn C.E.C.'s from courses certified by the commissioner as qualifying for credit in any class, may apply those C.E.C.'s toward either the property or casualty continuing education requirement or to the life, accident and health, or variable contracts continuing education requirement. However, a C.E.C. shall not be applied to satisfy both the biennial property or casualty requirement, or both, and the biennial requirement for life, accident and health, or variable contracts, or any combination thereof.

(d) An instructor of an approved subject shall be entitled to the same credit as a student completing the study.

(e) (1) An individual agent who has been licensed for more than one year shall, on or before the biennial due date, file a report with the commissioner that such agent has met the continuing education requirements for the previous biennium ending on such biennial due date. Every individual agent shall maintain a record of all courses attended together with a certificate of attendance for three years after the date of attendance.

(2) A newly licensed individual agent shall have the remainder of the biennium in which such agent is initially licensed plus the next biennium to comply with the C.E.C. requirements.

(3) If the required report showing proof of continuing education completion is not received by the commissioner by the biennial due date, the individual agent's qualification and corresponding license or licenses shall be automatically suspended for a period of 90 calendar days or until such time as the agent satisfactorily demonstrates completion of the continuing education requirement whichever is sooner and a penalty of \$100 shall be assessed for each license suspended. If the required proof of continuing education completion and the monetary penalty is not furnished within 90 calendar days of the biennial due date, the individual agent's qualification and corresponding license or licenses shall be revoked.

(4) An applicant for an individual agent's license who previously held a license which terminated on or after May 1, 1989, because of failure to meet continuing education requirements and who seeks to be relicensed shall pass the examination required for issuance of the new qualification and license and provide evidence that appropriate C.E.C.'s have been completed for the prior biennium.

(5) An applicant for an individual agent's license who previously held a license which was terminated on or before April 30, 1989, for failure to meet the minimum educational requirements contained in K.S.A. 40-240b as it existed prior to the passage of this act and who seeks to be relicensed shall pass the examination required for issuance of the new license.

(6) Upon written application by an individual agent, the commissioner may, in cases involving medical hardship or military service, extend the time within which to fulfill the min-

imum continuing educational requirements for a period of not to exceed 180 days.

(7) This section shall not apply to inactive agents as herein defined during the period of such inactivity. Upon return to active status or expiration of the maximum inactive period, the agent shall have the remainder of the current calendar year plus the next calendar year to comply with the continuing education requirement:

(f) (1) A course, program of study, or subject shall be submitted to and certified by the commissioner in order to qualify for purposes of continuing education.

(2) The following information shall be furnished with each request for certification:

(A) Name of provider or sponsoring organization;

(B) course title;

(C) date course will be offered;

(D) location where course will be offered;

(E) outline of the course including a schedule of times when subjects will be presented;

(F) names and qualifications of instructors;

(G) number of C.E.C.'s requested; and

(H) a nonrefundable fee in the amount of \$50 per course or a nonrefundable fee in the amount of \$250 per year for all courses.

(3) Upon receipt of such information, the commissioner shall grant or deny certification as an approved subject and indicate the number of C.E.C.'s that will be recognized for the subject. Each approved subject or course shall be assigned by the commissioner to one or both of the following classes:

(A) Property and casualty insurance contracts or

(B) life insurance contracts (including annuity and variable contracts) and accident and health insurance contracts.

(4) A course or subject shall have a value of at least one C.E.C.

(5) A provider seeking approval of a course for continuing education credit shall provide for the issuance of a certificate of attendance to each person who attends a course offered by it. The certificate shall be signed by either the course instructor or the provider's authorized representative. Providers shall also maintain a list of all persons who attend courses offered by them for continuing education credit for the remainder of the biennium in which the courses are offered and the entire biennium immediately following.

(6) A course may be approved after a program of study has been held if the required

material is furnished within 60 days after the program was completed and prior to the biennial due date.

(7) The commissioner may grant approval to specific programs of study that have appropriate merit, such as programs with broad national or regional recognition, notwithstanding the lack of a request for certification. The fee prescribed by subsection (g)(2)(H) of this section shall not apply to approvals granted hereunder.

(8) The C.E.C. value assigned to any course, program of study or subject, other than a correspondence course or other course pursued by independent study, shall in no way be contingent upon passage or satisfactory completion of any examination given in connection with such course, program of study or subject.

(g) The commissioner shall provide, upon request, a list of all approved continuing education courses currently available to the public.

(h) An individual agent who studies independently for an insurance examination, other than an agent's examination, approved by the commissioner, and who passes an independently monitored examination, shall receive credit for the C.E.C.'s assigned by the commissioner as recognition for the approved subject. No other credit shall be given for independent study.

(i) The commissioner may waive the continuing education requirements imposed by this act for nonresident agents who have complied with continuing education requirements imposed by their state of domicile.

History: L. 1988, ch. 151, § 5; L. 1988, ch. 148, § 1; L. 1990, ch. 161, § 1; L. 1992, ch. 19, § 1; July 1.

Amend K.S.A. 40-3706 to read as follows:

40-3706. (a) No person shall be eligible to apply for a license as a life insurance broker unless such person has been licensed as a life and accident and health insurance agent or broker in this or another state, a United States territory or a province of Canada for the five (5) years immediately preceding the date of application. This requirement shall not include variable life or variable annuity licenses.

(b) No person shall be eligible to apply for a license as a casualty insurance broker unless such person has been licensed as an all lines fire and casualty insurance agent or broker in this or another state, a United States territory or a province of Canada for the five (5) years immediately preceding the date of application. This requirement shall not include title insurance. Agents licensed for at least one line of fire insurance and at least one line of casualty insurance during said five-year period may qualify under this section by successfully passing the insurance department examinations for the remaining lines.

(c) Except as otherwise provided by this subsection, no person shall be eligible for licensure under this act unless such person is a resident of the state of Kansas and a citizen of the United States. Evidence of such facts shall be submitted to the commissioner. A broker's license may be issued to a nonresident of this state who is licensed as a broker by the state in which he or she resides if such nonresident: (1) Has been licensed as a nonresident agent in this state for the five (5) years immediately preceding the date of application; (2) submits evidence of completion of fifteen (15) credit hours, or the equivalent thereof, of business or accounting courses taught by an accredited college, university or community college, or, a professional designation determined equivalent by the commissioner; (3) satisfactorily demonstrates to the commissioner that he or she is otherwise qualified in the lines of insurance to be transacted under the broker's license for which application is made; and (4) pays the fee prescribed by K.S.A. 40-3704. The annual renewal fee for any such broker's license shall be in the amount prescribed by K.S.A. 40-3708. In addition to the foregoing

requirements, such nonresident applicant shall comply with the provisions of K.S.A. 40-3711. Whenever any other state imposes on Kansas brokers additional or greater fees, obligations or prohibitions, the same shall be imposed on similar brokers of such other state.

(d) Nothing in this act shall be construed as preventing a person from being simultaneously licensed hereunder as a life insurance broker and a casualty insurance broker.

I move to amend SB 393:

- 1) On page 4, line 4 by striking the word "two" and inserting the word "five";
- 2) On page 6, line 41 by inserting the following after the word "file": , including but not limited to mailings to the owner which have not been returned to the holder;
- 3) On page 20, line 32 by deleting the sentence beginning in that line and replacing it with:

"The provisions of this section shall not apply to any supervised commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company which provides a letter from an independent certified public accountant or a resolution of its board of directors certifying compliance with this act, unless there is notification of non-compliance by a supervising agency of such commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company";
- 4) On page 23, line 22, by inserting the word "willfully" following the word "who"; and on page 23, line 26, by inserting the word "willfully" following the word "who"; and
- 5) On page 26, line 16 by deleting the words "statute book" and replacing them with "Kansas register".

James L. D.
Attachment 3
Jan 18, 1994

SALLY THOMPSON
STATE TREASURER



OFFICE OF THE STATE TREASURER
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TO: Members, Financial Institutions and Insurance Committee
FROM: Sally Thompson, State Treasurer
DATE: January 13, 1994
RE: SB 393

I must first apologize to Chairman Bryant. I was unaware of the opposition from the financial institutions when I assured him, back in December, that SB 393 would not be controversial. I assumed that because the bill passed in the Senate last session, 40-0 with no opposition and had been around for several months that any opposition would have already surfaced. I was very surprised when I learned, a few days prior to the hearing, that the Kansas Bankers Association would testify against the bill. I also had no idea that the S&L and Credit Union groups also had concerns.

We have been able to resolve many of the smaller concerns raised during Wednesday's committee hearing.

The major point of contention in regard to the audit function remains. As you know I offered a compromise. That compromise has been rejected. The financial institutions have asked for an extension, before the committee takes action on the bill, to talk with their state committees in an effort to come up with a compromise that we can all feel comfortable with.

As you know, my primary concern is that I am able to perform my fiduciary responsibilities. Our responsibility to reunite Kansans and their property must be the primary focal point in this discussion. I truly believe an audit function will allow me to best serve taxpayers by ensuring that they receive all property that is rightfully theirs.

Additionally, our goal is to bring Kansas into compliance with the 32 other states who have audit language in their Unclaimed Property statutes. In the past 24 hours my office has pulled together some research. I have attached that information. I think it's interesting to note that none of the states contacted exempt financial institutions. I've also attached the history on the exemption and it is equally interesting to note that the exemption was added by the Kansas legislature in 1979 and was not part of the 1954 uniform code.

We are racing against the clock at this point. It is imperative that this legislation be passed so that we may complete our work with a private corporation in Kansas. Again, this legislation will bring in at least \$25 million. So you see it is very important to us.

I am anxious to sit down with the financial institutions again and reach a compromise. If we fail, I will place my trust in the committee decision. I am confident that the committee will make their decision based on what is best for all Kansans.

<u>State</u>	<u>Audit Function</u>	<u>Since</u>	<u>By Whom</u>	<u>Exemption for financial institu- tions?</u>	<u>Cont.</u>
Alabama	Y	1988	outside firm	N	Valyn Helms
Arizona	Y	1984	staff	N	Donna Gaudino
Arkansas	Y	1987	staff	N	Larry Zeno
California	Y	1974	staff	N	Hughlen
Colorado	Y	1990	staff	N	Patty White
Connecticut	Y	1989	staff	N	Wesley Winter
D.C.	Y	1985	staff	N	Rose Mary
Florida	Y	1985	staff	☎	Larry Folsom
Idaho	Y	1983	staff	N	Debbie
Indiana	Y	1978	staff & outside	N	Janice
Iowa	Y	1984	staff	N	Steve Larson
Louisiana	Y	1987	staff	N	Benny Spann
Maine	Y	1984	field offices	N	Melissa
Maryland	Y	1985	staff	N	Lynn Hall
Massachusetts	Y	1978	staff	☎	
Missouri	Y	1987	staff	N	Cindy Tellman
Nebraska	Y	1988	staff	☎	
Nevada	Y	1985	staff	☎	Jim Start
New Jersey	Y	1985	staff	N	Leslie
New York	Y	1973	staff	☎	
North Carolina	Y	1983	staff	N	Lee Heins
Ohio	Y	1983	staff	☎	
Oklahoma**	Y	1982	staff	N	Alex Walia
Rhode Island	Y	?	staff	☎	
South Carolina	Y	?	field offices	N	Ed Barwick
Tennessee	Y	1989	staff	N	Kim Marrow
Texas	Y	1981	staff	N	Kay Tuggle
Utah	Y	1987	staff	N	Michael Earl
Virginia	Y	1982	staff	N	Karen Larson
Washington	Y	1979	staff	N	Patty Mastioni

(total: 30)

*☎ Indicates that a telephone message was left & not yet returned.

**Oklahoma took this matter to court in 1984 and won the right to audit banks.

SURVEY QUOTES:

"No way do we exempt banks. Financial institutions are our largest holders. If your legislature would look at other states--boy they'd see that's a chunk of money," Michael Earl, Utah.

"Oh no...banks were one of the first places we looked. Banks have so many different kinds of property that can be easily overlooked," Kay Tuggle, Texas.

"We would never exempt financial institutions, they're our best customers," Karen Larson, Virginia.

1954 Uniform Disposition of Unclaimed Property Act as Revised in 1966

Section 23. Examination of Records

The State Treasurer may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this Act.

Current Statute

K.S.A. 58-3924. Examination of records; state agency cooperation.

The state treasurer may within one hundred twenty (120) days after receiving the report required under K.S.A. 58-3912 and upon reasonable notice examine all records pertaining to abandoned property of any person if the state treasurer has reason to believe that such person has failed to report property that should have been reported pursuant to this act. Audits and inspections made pursuant to this act shall be conducted only by employees of this state, duly authorized by the state treasurer. The provisions of this section shall not be deemed to authorize audits or inspections of supervised commercial banks, trust companies, savings and loan associations, credit unions, supervised licensed lenders, and insurance companies with home offices located in this state. All state agencies shall provide the state treasurer with such information as is necessary for carrying out the provisions of this act.

Proposed Statute - 1981 Uniform Act

Section 30. Requests for Reports and Examination of Records

b. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this act. The administrator may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this act. **THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSON THAT PROVIDES A LETTER FROM AN INDEPENDENT AUDITOR OR SUPERVISORY AGENCY CERTIFYING COMPLIANCE WITH THIS ACT.**

c. If a person is treated under section 12 and amendments thereto as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (b), may examine the records of the person if the administrator has given the notice required by subsection (b) to both the person and the business association at least 90 days before the examination.

d. If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder *based upon the actual hourly salary rate for each examiner involved in the examination inclusive of travel to and from the place of the examination along with necessary and actual expenses for travel and subsistence as allowed under K.S.A. 75-3201 et seq. and amendments thereto, along with any consulting, data processing, or other related expenses necessary to perform the examination.* In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

e. If a holder fails after the effective date of this act to maintain the records required by section 31 and amendments thereto and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.