

Approved: February 8, 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 February 7, 1994 in Room 527-S of the Capitol.

All members were present except: Representative Phil Kline

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

Conferees appearing before the committee: Stephen A. English, The Trust Company of Kansas  
Chuck Stones, Kansas Bankers Association  
Representative Jim Garner  
James Maag, Kansas Bankers Association

Others attending: See attached list

**HEARING ON HB 2691: Cemetery Corporations, trust companies**

Stephen A. English, representing The Trust Company of Kansas which is headquartered in Wichita, spoke in favor of the bill which would allow trusts to pay for various types of cemetery merchandise in advance or a percentage of the purchase price for a burial lot could be designated in trust for the cemetery's permanent maintenance fund for future use (Attachment 1).

**HEARING ON HB 2716: Allowing banks and trust companies to hold real estate as a book asset indefinitely**

Chuck Stones, Kansas Bankers Association, stated that this bill would allow banks greater flexibility when attempting to manage its assets (Attachment 2). Banks can own "other real estate" for only certain lengths of time and this causes problems in small communities where there is not an active market for specific types of real estate. This bill would allow the Banking Commissioner to give the bank some flexibility in time allowed to dispose of the property while at the same time giving the Commissioner more than adequate control in their annual review process. Limitations were placed in the first place as state banks are not allowed to invest in these types of properties so when they acquire them by default, time extensions must be filed.

Representative Garner stated that this proposed legislation would remove the nine year limit and allow for longer periods of time to carry real estate as an asset provided it meets with the Commissioner's approval (Attachment 3). The Banking Commissioner would have oversight authority to review real estate carried as assets and thus prevent the carry over if it is no longer income producing or likely to be sold. The testimony included a letter from Coffeyville State Bank urging passage of this legislation.

James Maag, Kansas Bankers Association, told the Committee that national banks can hold land for five years with a five year extension.

Representative Gilbert moved for the approval of the January 31, February 1 and 2 minutes. Motion was seconded by Representative Cox. Motion carried.

The meeting adjourned at 4:06 p.m. The next meeting will be held on February 8, 1994.

## GUEST LIST

COMMITTEE: HOUSE FINANCIAL INSTITUTIONS & INS. COM

DATE: 2/7/94

[illegible]

TESTIMONY FOR STEPHEN A. ENGLISH  
IN FAVOR OF HOUSE BILL 2691  
before  
HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE  
February 7, 1994

My name is Stephen A. English. I reside at 304 Warren Way, Arkansas City, Kansas. I am President and a substantial owner of stock of The Trust Company of Kansas, headquartered in Wichita, Kansas. We currently manage over \$100 million of trust funds.

I come before this committee to speak in favor of House Bill 2691.

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 those statutes to serve as trustee for these purposes. However, in 1989 the references to trust companies in K.S.A. 16-322, 16-324, 17-311 and 17-312 were deleted. These statutes, as currently written, give Kansas state banks the power to serve as trustees in these situations, but not

*House File  
Attachment 1  
Feb. 7, 1994*

Stephen A. English  
House Financial Institutions and Insurance Committee  
February 7, 1994  
Page 2

trust companies.

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 other funds placed in trust that trust companies manage every day pursuant to their fiduciary responsibilities.

Therefore, I request that this committee give favorable consideration to this bill.

# The Kansas Bankers Association

1500 Merchants National Bank Bldg.

Topeka, KS 66612

913-232-3444 FAX 913-232-3484

---

TO: House Financial Institutions and Insurance Committee

FROM: Chuck Stones, Director of Research

RE: HB 2716

Mr. Chairman and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you to discuss HB 2716. HB 2716 would allow a bank greater flexibility when attempting to manage its assets.

Many times a bank will acquire property in satisfaction of debts due. That property is placed in an asset category called "other real estate owned". Under normal circumstances a bank would not be allowed to own such property, but under these circumstances the bank may acquire the property with certain time requirements given for the property's disposition. Many times, especially in smaller communities, there is not an active market for the property acquired. So, even though the property may actually be making money for the bank through rents or other means, when the time limit expires, the bank must dispose of the property, **even if it means taking a loss**. HB 2716 would allow the bank commissioner to give the bank some flexibility in the time allowed to dispose of the property, while at the same time giving the commissioner more than adequate control in their review process. The safety and soundness of the bank would not be compromised and, in many cases, would be protected while the bank is attempting to secure a buyer for the property at a fair price.

We believe HB 2716 is positive legislation and urge your favorable consideration.



*Stacy Fisk*  
*Attachment 2*  
*Feb 7, 1994*

STATE OF KANSAS

JIM D. GARNER  
REPRESENTATIVE, 11TH DISTRICT  
601 EAST 12TH  
P O. BOX 538  
COFFEYVILLE, KS 67337  
(316) 251-1864  
(316) 251-5950  
  
TOPEKA ADDRESS:  
STATE CAPITOL, RM 284-W  
TOPEKA, KS 66612-1504  
(913) 296-7699  
1 800-432-3924



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
RANKING DEMOCRAT: JUDICIARY  
MEMBER: TRANSPORTATION  
LABOR AND INDUSTRY  
KANSAS JUDICIAL COUNCIL  
CRIMINAL LAW ADVISORY COMMITTEE  
NCSL STATE AND FEDERAL ASSEMBLY  
LAW AND JUSTICE COMMITTEE

TESTIMONY IN SUPPORT OF  
HOUSE BILL 2716

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee and to testify in support of HB 2716. HB 2716 provides a much needed change in our current law concerning Other Real Estate Owned carried as book asset of a bank.

Currently, the laws allows REO to be carried as a book asset for five years with the possible addition of for years, for a maximum limit of nine years. This bill would remove the arbitrary nine year limitation and allow for longer periods of time to carry real estate as an asset, provided the asset meets with the approval of the state banking commissioner.

This change would make Kansas law conform with most of the state laws in the other states within our regional banking area. All states but Missouri allow for unlimited periods of extension. Attached is a document from Legislative Research Staff detailing the law in surrounding states.

In addition, the change would recognize the realities of selling real estate, especially commercial real estate, in rural Kansas. Some property can be quite valuable once the right buyer is found. However, it could take over nine years to find the right buyer for commercial real estate. In the mean time, if the property is being rented, it should be allowed to remain an asset of the bank, since it is producing income and is not a drain on the bank. To say that it is a detriment to the bank and should be written off after nine years is arbitrary and fictitious.

*House File  
Attachment 3  
Feb. 7, 1994*

Under this bill, the state banking commissioner would have oversight authority to review real estate carried as assets and thus prevent the carry over if it is no longer income producing or likely to be sold.

Again , thank you for the opportunity to testify in support of HB 2716. I ask that the committee take favorable action on HB 2716.

STATE OF KANSAS

RICHARD W. RYAN,  
DIRECTOR  
BEN F. BARRETT,  
ASSOCIATE DIRECTOR  
ALAN D. CONROY  
CHIEF FISCAL ANALYST



STAFF—  
LEGISLATIVE COORDINATING COUNCIL  
INTERIM COMMITTEES  
STANDING COMMITTEES  
LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT

300 W. TENTH—ROOM 545-N  
PHONE: (913) 296-3181/FAX (913) 296-3824  
TOPEKA, KANSAS 66612-1504

October 14, 1993

Representative Jim D. Garner  
601 East 12th  
Coffeyville, Kansas 67337

Dear Representative Garner:

This letter is a response to your request for information regarding the time a bank may carry "other real estate owned" as a book asset of the bank before it must be disposed of by the bank.

You know that K.S.A. 9-1102 (b) establishes that limit at five years with the potential of an extension for four additional years as allowed by the Bank Commissioner. The maximum limit is nine years. The five plus four allowance has been in the Kansas statutes since 1935. Clearly, the number of years that other real estate owned may be held is at the discretion of the Kansas Legislature. Since 1935, this and other Kansas banking statutes have been significantly amended (recodified in 1947 and updated in 1975). Through both of those major reenactments, the five plus four-year provision has remained unchanged.

As you requested, I reviewed the statutes of several states relative to this other real estate provision. Specifically, I examined the statutes of the states which are contiguous to Kansas and are reciprocal to our state for purposes of interstate banking. The following table reflects my findings:

<b>Nebraska</b>	5 years unless given permission to hold longer (extension unspecified)
<b>Arkansas</b>	10-year charge-off but can be extended (extension unspecified)
<b>Colorado</b>	15 years or longer with permission (extension unspecified)
<b>Oklahoma</b>	5 years but can be extended (extension unspecified)
<b>Iowa</b>	5 years unless time is extended (extension unspecified)
<b>Missouri</b>	6 years

As indicated by the data, Kansas is in the mainstream of these states and individual states have established their own particular provision for the holding of other real estate by their state banks.

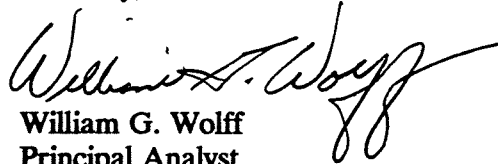


Representative Garner

- 2 -

I hope this information is of assistance to you. Please call me if you need further help.

Sincerely,

  
William G. Wolff  
Principal Analyst

WGW/jl



February 7, 1994

Representative Bill Bryant  
Chairman of the Financial Institutions and Insurance Committee  
State of Kansas  
House of Representatives  
Room 112 South  
Topeka, KS 66612

RE: House Bill #2716

Dear Representative Bryant:

KSA 9-1102 dictates how long a bank in Kansas can carry real estate on its books after the real estate is acquired in satisfaction of debts. This statute now allows a parcel of acquired real estate ("other real estate") to be carried on a bank's books for no more than nine years. The statute now allows for a bank to carry the property on its books for the first five of the nine years without the specific approval by the State Banking Commissioner. If the bank continues to own a parcel of other real estate the remaining four years of the nine year time period must be approved by the State Banking Commissioner. But in any event the bank can not hold other real estate longer than nine years.

HB2716 would grant the State Banking Department and the State Banking Commissioner the authority to allow a bank after the first five year term, to carry real estate acquired in satisfaction of debts on its books longer then the original allowable five year term if, in the opinion of the State Banking Commissioner, it will be to the advantage of the bank to carry the real estate as an asset for an extended period.

Theoretically, with the passage of HB2716 the State Banking Commissioner could allow a bank to carry the other real estate for a period longer than the nine years now in the statute.

HB2716 increases the scope of the Commissioner's authority only specifically relating to the ultimate period of time a parcel of other real estate may be carried on a bank's books.

February 7, 1994

Page 2 of 2

From a practical standpoint the State Banking Commissioner subjects the other real estate to very strict standards so that if he approved an additional extension there would be no questions that the other real estate has sufficient value to remain on the bank's books. Additionally, the State Banking Department requires annual appraisals on each parcel at this time and it is anticipated that this would and should continue.

I believe it is in the best interest of Kansas banks' to amend KSA 9-1102 as reflected in HB2716. I do not believe that it is in the best interest of Kansas banks' to cause a parcel of real estate to be charged off after the ninth year that is owned by a bank if the other real estate has sufficient value.

The Kansas Banker's Association supports HB2716.

Thank you very much for the opportunity to present this information. I very much appreciate your time and consideration.

Sincerely,



DALE B. DONALDSON  
President

DBD:sf

3-6