

Approved: March 16, 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 March 8, 1994 in Room 527-S of the Capitol.

All members were present except: Representative Robert Watson, Excused  
Representative George Teagarden, Excused  
Representative Phil Kline, Excused  
Representative Darlene Cornfield, Excused

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

Conferees appearing before the committee: William Caton, KFDA  
Chuck Stones, Kansas Bankers Association  
Judi Stork, Kansas Bank Commissioner's Staff  
Bud Grant, KCCI  
George Barbee, Kansas Financial Services

Others attending: See attached list

**HEARING ON SB 508: Limits on life insurance on bank officers and directors**

William F. Caton, KFDA, stated that this amendment is critical to the success of the plan which would allow stated chartered banks to invest in a state tax credit equity fund that will be established assuming HB 2726 is approved by the Senate and the Governor (Attachment 1). This bill would allow a bank, with the prior approval of the Bank Commissioner, to purchase and hold life insurance policies on officers and directors and for deferred compensation agreements in excess of the 15 percent lending limitation imposed on that type of investment. This bill would allow banks to invest in community development corporations and community development projects up to a specified percentage of the bank's capital and surplus upon approval of the Bank Commissioner.

Chuck Stones, Kansas Bankers Association, said the Senate had amended the bill to allow state-chartered banks to invest in community development corporations (CDC) and community development projects (CD project) (Attachment 2). This is an investment currently afforded to national banks and is one which will become increasingly important as new federal regulations relating to the Community Reinvestment Act (CRA) are put in place.

Bruce Kinzie stated that SB 508 would be amended by striking "company" on Page 9 Line 32 and by removing the like section in SB 540.

**HEARING ON SB 505: Cleanup of UCC section on banks**

This bill would delete language in subsection (d) (1) of K.S.A. 84-4-401 written in 1975 which is duplicative of language contained in subsection (c) of the same statute which was a 1991 amendment.

Chuck Stones, Kansas Bankers Association, stated that subsection (c) states that a bank is not liable for paying an otherwise properly payable check before the date of the check--unless the bank has received notice that the check is post-dated (Attachment 3). Notice can be oral in which case it will be effective for 14 days or the effectiveness can be extended for a period of six months upon a written confirmation from the customer. Even though this was addressed in the Kansas UCC in 1975, the Kansas Bankers Association recommends the uniform language used in the 1991 changes be left intact and the 1975 language be deleted.

Representative Sebelius moved to pass the bill out favorably and place it on the Consent Calendar. The motion was seconded by Representative Minor. Motion carried.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527-S Statehouse, at 3:30 p.m. on March 8, 1994.

### **HEARING ON SB 538: Bank dissolution requires filing with bank commissioner**

This bill was recommended by the Bank Commissioner as a technical correction to legislation enacted in 1993 which purported to address mergers, transfers, consolidations, or transfers of assets and liabilities but which addressed only mergers, consolidations, and purchases and assumptions.

Judi Stork of the Kansas Bank Commissioner's Office said they are requesting the additional language "or article 68" be included in K.S.A. 9-1724. The department has not had any assertions by banks claiming they have no jurisdiction, however, they feel the language should be corrected to clarify any questions.

(Attachment #4)

Representative Dawson moved that the bill be passed out favorably and placed on the Consent Calendar.  
Motion was seconded by Representative Neufeld. Motion carried.

### **HEARING ON SB 539: Liability of bank officers and employees**

The bill would increase the liability (loan limitation) for an officer or employee from 5 percent to 15 percent of the bank's paid-in and unimpaired capital stock and unimpaired surplus fund.

Chuck Stones, Kansas Bankers Association, explained that compared to federal law, current state law is more restrictive (Attachment 5). National Banks under Federal Regulation O may lend up to 15% of unimpaired capital and unimpaired surplus to their directors, principal shareholders, and executive officers. Mr. Stones explained the exemptions and exceptions to the flat 5% rule contained in Kansas statutes and the simple amendment which would increase the lending limit for active officers and employees of state chartered banks to 15%. A proposed amendment would also raise the loan amount to an officer from \$10,000 to \$50,000 before it must be approved by the board of directors.

Representative Correll moved to accept the amendment which would raise the loan amount from \$10,000 to \$50,000. The motion was seconded by Representative Minor. Motion carried.

Representative Sebelius moved to pass the bill out favorably as amended. The motion was seconded by Representative Allen. Motion carried.

### **HEARING ON SB 757: Abolishing the savings and loan fee fund and transferring its moneys to the bank commissioner fee fund**

The bill would amend K.S.A. 9-1703 in the following ways:

1. Allow the Bank Commissioner to annually assess savings and loan associations for the expense of examination and administration of savings and loan laws.
2. Require savings and loan associations to file four reports annually with the Bank Commissioner and federal regulators.
3. Delete the methodology for assessing savings and loan associations.
4. Transfer all moneys from the Savings and Loan Fee Fund to the Bank Commissioner Fee Fund and abolish the Savings and Loan Fee Fund.
5. No reports to be filed with the Commissioner.

Judi Stork, Kansas Banking Commissioner's Office, requested the above amendments be approved and passed (Attachment 6). She explained the reasoning behind each request and how it would affect their office.

Representative Minor moved that the bill be passed out favorably. Motion was seconded by Representative Neufeld. Motion carried.

### **HEARING ON SB 567: Delinquency charges on UCCC consumer credit transactions**

This bill would amend the UCCC which sets the delinquency charge which can be made on an installment payment not paid within ten days after its scheduled or deferred due date. This bill would allow as an alternative to the existing charge, a delinquency charge not to exceed \$10; however, if the scheduled payment amount is \$25 or less, the maximum delinquency charge shall be \$5.

Bud Grant, KCCI, explained the necessity of the bill because retail credit customers who fail to remit their

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527-S Statehouse, at 3:30 p.m. on March 8, 1994.

monthly minimum payment by the agreed due date cause the Kansas retailer to incur additional costs in attempting to collect the past due payments (Attachment 7). Kansas credit grantors must compete against late charge fees being imported into the state by out-of-state banks.

George Barbee, Kansas Financial Services, agreed with the Senate amendment which reduced the delinquency charge to \$5.00 for payments under \$25.00.

Written testimony was presented from William Caton, Commissioner of Consumer Credit (Attachment 8).

The meeting was adjourned at 4:45 p.m. The next meeting is scheduled for March 9, 1994.

## GUEST LIST

COMMITTEE: FBI

DATE: 3/8

[illegible]



# KANSAS

KANSAS DEVELOPMENT FINANCE AUTHORITY

Joan Finney  
Governor

Wm. F. Caton  
President

TESTIMONY  
SENATE BILL 508  
HOUSE FINANCIAL INSTITUTIONS AND INSURANCE  
MARCH 8, 1994  
WM. F. CATON

Thank you for the opportunity to appear before you today to request an amendment to Senate Bill 508. This amendment would allow state chartered banks to invest in a state tax credit equity fund that will be established assuming H.B. 2726 is approved by the Senate and the Governor. Attached is a balloon I have prepared to facilitate the proposed amendment.

As you will recall, H.B. 2726 originally included language to allow this investment by state chartered banks. S.B. 508 properly places limitations on investments of this kind which are necessary to maintain the safety and soundness of our state banking system. Language was removed from your committee on H.B. 2726 in anticipation of this amendment to S.B. 508.

I have discussed this amendment with Judy Stork, Deputy Bank Commissioner, and Jim Maag, Kansas Bankers Association, and both have verbally indicated they have no objections to this amendment.

This amendment is critical to the success of a state tax credit equity fund. As I testified on H.B. 2726, the state anticipates pooling several small projects, especially in rural areas, that possibly would not materialize without the assistance of selling the tax credits associated with the projects.

Thank you for your attention. I will be glad to answer any questions or provide any additional information you might request.

*Wm. F. Caton*  
*Attachment 1*

*March 8, 1994*



# The Kansas Bankers Association

1500 Merchants National Bank Bldg.

Topeka, KS 66612

913-232-3444 FAX 913-232-3484

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TO: House Financial Institutions and Insurance Committee

FROM: Chuck Stones, Director of Research

RE: SB 508

Mr. Chairman and Members of the Committee:

During the 1993 session the Legislature passed SB 37 giving state-chartered banks additional investment authority. specifically the bill allowed state banks to purchase and hold an interest in life insurance policies on the life of its executive officers and directors. and to also purchase life insurance policies in connection with employee compensation and benefit plans.

It has been called to our attention that the language contained in SB 37 has proven to be unduly restrictive for the plans which had been structured by several community banks throughout the state. These plans were entered into in good faith in the belief they conformed with Kansas law and are vital to retaining good management in these institutions.

Several meetings have been held with the Bank Commissioner and his staff on this issue. since each plan has certain unique characteristics it was the decision of the KBA State Affairs Committee that the best way to resolve the problem would be to simply give the Commissioner authority to review these plans on an individual basis. Thus KSA 9-1101 (25)(a)(i) and (25)(b)(v) are amended to give the Bank Commissioner such authority. We strongly urge the committee to give positive consideration to these amendments so community banks throughout Kansas can continue to offer these insurance packages in order to retain their key personnel.

The Senate Committee amended SB 508, at our request, to allow state-chartered banks to invest in community development corporations (CDC) and community development projects (CD project). This is an investment currently afforded to national banks and is one which will become increasingly important as new federal regulations relating to the Community Reinvestment Act (CRA) are put in place. A state bank's ability to make such an investment could be vital to economic improvements in their community and they should not be placed in a position of having fewer resources to assist economic growth than their national bank competitors.

Attached to this testimony are articles relating to CDCs and how effective they can be developing low and moderate-income housing and minority business opportunities.

Thank you for your consideration and we urge your favorable action.

*House F.D.D.*  
*Attachment 2*  
*March 8, 1994*



## FOCUS ON BANKING

# THE CDC SOLUTION

*Banks speed up growth of corporations giving development loans to community*

BY CASEY GILMORE

The number of bank-owned Community Development Corporations active in the Kansas City area has tripled over the past six months, a hopeful sign for those seeking new community investment dollars.

Subsidiaries of Fourth Financial Corp. in Wichita and United Missouri Bancshares in Kansas City were formed in June and October, respectively, to increase the bank companies' community development investments. They join St. Louis-based Boatmen's Bancshares Inc., which has had a CDC active in Kansas City since 1989.

Banks are required to invest in their communities, yet face strict regulations on debt levels that exclude many low- and moderate-income borrowers. As a result, banks are setting up community development corporations as subsidiaries to make the investments that banks cannot in affordable housing and small businesses.

The CDCs are being encouraged by the Comptroller of the Currency, which recently relaxed review requirements for CDC-funded projects and doubled the cap on investments a bank holding company can make in its CDC. A regulation announced Dec. 28 permits banks to invest up to 10 percent of their unimpaired capital and surplus in the CDC, up from 5 percent.

Gary Sherrer, senior vice president of Fourth Financial and president of its community development corporation, said the greater popularity of CDCs reflects a new corporate consciousness. He said companies that cared about communities in the past have supported the United Way and various charities, a tradition that should continue.

"But sometimes that is dealing with the symptoms and easing the pain that is created by a system that would change if we could create more small-business jobs, cleaner housing and create a broader tax base," he said.

### Developing partnerships

Sherrer said corporations realize they can help turn around declining communities by investing directly in housing rehabilitation and small businesses.

In its first six months, Fourth's CDC has invested \$350,000 in 11 housing projects in eight markets, none in Kansas City so far. Often the project involves buying and rehabilitating a house and then selling it. The CDC also has made small-business loans totaling \$175,000, one enabling a Wichita contractor to get a contract for flood repair in Kansas City.

Fourth's plan for 1994 is to leverage the CDC's funding by approaching other corporations that serve multiple markets throughout Kansas to invest in the CDC. Fourth hopes to undertake larger projects with greater impact.

"We think we can develop corporate partnerships. If we build up communities, affordable housing and small businesses, good things happen for all of us."

Kansas City-based United Missouri Bancshares won approval for its CDC in October. President Reginald Smith, who also runs United Missouri Mortgage Co., said the CDC was developed to address the needs of low- and moderate-income homebuyers whose needs were not being met by other UMB products.

The CDC offers a mortgage with no points in which the 5 percent down payment and the costs for title searches, appraisals, inspections and other services are rolled into the mortgage. The down payment and closing-cost sum is amortized over three years, at which point the monthly mortgage payment drops.

The CDC has made eight home loans so far. Smith said the CDC can make a loan of up to 104 percent of the purchase price, a ratio that would draw criticism from regulators if it were done at the bank.

Like Sherrer, he said that a mix of CDCs, each with its own targets, will help make a difference in turning around Kansas City neighborhoods that have withered for lack of attention and investment.

"It took neighborhoods a long time to decline and it will take a long time to bring them back," he said. "Collectively, these programs will meet the needs" in low-income communities.

### Old but aggressive

The oldest bank CDC investing in Kansas City also produced the largest investment in the city last year; Boatmen's

CDC announced in October that it would invest \$5.8 million in the Old City Hill neighborhood Downtown.

Boatmen's had been involved in mortgage lender in earlier phases of the project and the CDC stepped in to provide financing for the project's third phase. Douglas Woodruff, chief operating officer of Boatmen's CDC, said the investment was guided by Boatmen's philosophy that revitalizing Kansas City's Downtown and older neighborhoods is critical to the city's overall growth and stability.

In its first four years, the CDC had invested \$1 million in Kansas City through the National Equity Fund, a fund made up of investments from large corporations. The fund's investments are administered by the Local Initiative Support Corp., which has 22 Kansas City projects comprising 762 units of rental housing. The projects represent \$46 million in reinvestment, \$16.26 million of which came from the NEF. In exchange for their investments, the corporations receive low-income-housing tax credits. Their returns come primarily from tax credits, depreciation write-offs and deductions for interest payments.

### Lending consortium

In addition to the CDCs, nine banks have jointly sponsored a lenders consortium aimed at providing low-cost mortgages to low- and moderate-income homebuyers. The consortium is working with the state to develop a homebuyers program.

Woodruff said Boatmen's so far has supported housing ventures but will look this year into making small-business loans. Sherrer said Fourth is making housing and small-business loans to create jobs in the communities where it is redeveloping housing.

The business loans in 1993 included a \$80,000 loan to a minority contractor who needed \$380,000 up front to buy the equipment and hire the staff to land a multimillion-dollar government flood damage contract. The contractor could get a Small Business Administration-guaranteed loan for \$300,000 but couldn't come up with the \$80,000.

A second loan involved buying a property and selling it back to a Topeka day-care operator. The operator had leased the building and wanted to buy it but couldn't get a loan. She has since increased her staff and the number of children she serves by 50 percent, Sherrer said.

Sherrer said small businesses are frustrated when they cannot get debt-to-equity tests and cash flow statements from banks demand. Bankers when they cannot find many cases, he said, (1)



## COMMUNITY DEVELOPMENT CORPORATION INVESTMENT RULES ARE ISSUED BY OCC

In the wake of recent regulatory efforts to boost community investment by banks, the Office of the Comptroller of the Currency Dec. 27 issued final community development corporation and project investments rules aimed at encouraging national banks to address community financing needs.

"It is important to give banks authority to significantly increase their dollar investments in CDCs and CD projects to enhance the opportunity for banks to participate in improving their communities," Comptroller Eugene Ludwig said in announcing the final regulation, which was published in the *Federal Register* (58 FR 68464).

The rule, which implements Section 6 of the Depository Institutions Disaster Relief Act of 1992, generally would make it easier for national banks to increase their CDC and CD project investments.

A bank CDC is a for-profit or non-profit corporation established by one or more banks, or by a bank and other investors to promote community development. A CD project is a specific program that helps small and minority businesses or provides housing, services, or jobs for low- and moderate-income persons and families in the project area. These projects must largely benefit such businesses and low- and moderate-income persons by providing housing, services, or jobs, and a national bank's investments in them can "affect positively" their Community Reinvestment Act performance rating, OCC said.

Under the DIDRA regulations, banks generally must request OCC approval to hike the amount of their single project and aggregate investments in CDCs and CD projects above current investment limits.

The final rule eases that by hiking the limits, and by establishing a so-called self-certification notice procedure that lets a greater number of banks bypass the need to get prior OCC approval of such an investment. The rules also streamline the process when OCC approval is required.

The rule has an expedited effective date of Dec. 31, 1993.

### Rule Raises Threshold

Specifically, the rule would exempt adequately capitalized banks with asset sizes of \$250 million or less from getting prior OCC approval for CDC and CD project investments. Those banks can self-certify single investments up to 5 percent of unimpaired capital and surplus, provided all investments do not exceed 5 percent of unimpaired capital and surplus.

The OCC said this is "a more appropriate threshold" for defining small banks than the one of \$100 million suggested in its proposed regulations, issued for comment in July (61 BBR 82, 7/19/93).

The agency estimated that this threshold asset size represents about 83 percent of the national bank population—a change OCC said would benefit many small financial institutions.

The rule would also let national banks that have more than \$250 million in assets self-certify individual investments that do not top 2 percent of unimpaired capital and surplus, or \$10 million, whichever is less. Such a bank would have to seek OCC approval of its investments that exceed either of those limits.

### Streamlined Procedures Available

Additionally, certain adequately capitalized banks with composite CAMEL supervisory ratings of 3, with improving trends, can request authority from the OCC to self-certify their investments. Expedited approval would be granted for bank investments in specific CDCs and CD projects that have already been approved by the OCC for a different national bank. And all remaining investment proposals generally would be approved by the OCC within 30 days of receipt.

OCC approval would not be required for investments made by healthy, 1- or 2-rated banks that are covered by informal enforcement actions, under provisions included in the final rule.

### Investment Limits Are Increased

Finally, the final regulation also hikes the limit on bank investments in CDCs and CD projects. Prior to DIDRA, a national bank's aggregate investment could not pass 5 percent of its unimpaired capital and surplus.

The rule implements the section of the act that raises that ceiling to 10 percent of unimpaired capital and surplus, on a case-by-case basis. However, the OCC must determine that this does not pose significant risks to the deposit insurance fund.

According to an OCC press release, bank investments should increase to 400 annually from 200 as a result of the raised investment limits.

CDC and CD project investments that promote the public welfare must address local needs in low- to moderate-income areas. By investing in these projects, OCC said, national banks can meet community financing needs they could not otherwise address because of legal restrictions.

# The Kansas Bankers Association

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March 8, 1994

TO: House Committee on Financial Institutions and Insurance

FROM: Chuck Stones, Director of Research  
Kansas Bankers Association

RE: **SB 505: Striking KSA 84-4-401(d) (3)**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee on the matter of amending the Kansas Uniform Commercial Code.

As you will recall, the legislature in 1991, made major changes to the Uniform Commercial Code (UCC) which were a result of the recommendations of the Uniform Commissioners. Most of these changes appeared in Articles 3 and 4 of the UCC.

One of the uniform changes was made to KSA 84-4-401(c). The uniform language in this subsection codified the case law that had developed regarding a bank's liability for payment of a post-dated check.

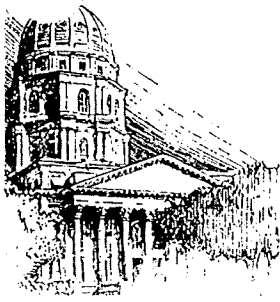
Subsection (c) states that a bank is not liable for paying an otherwise properly payable check before the date of the check - unless the bank has received notice that the check is post-dated. Notice can be oral in which case it will be effective for 14 days, or the effectiveness can be extended for periods of 6 months upon a written confirmation from the customer.

The Kansas legislature had already amended the Kansas UCC in 1975 to address this very same issue, and they addressed it in the same manner. Subsection (d)(3) states that a bank will not be liable for paying an otherwise properly post-dated check before the date unless written notice was received by the bank.

While the provisions for the type of notice that is to be given is different in the two subsections, we believe that the uniform language should stand, as that appears to be the intent of the 1991 changes.

Therefore, we ask that you consider striking the duplicative language in subsection (d)(3) of 84-4-401 as suggested by **SB 505**.

*House F.D.D.*  
*Attachment 3*  
*March 8, 1994*



*From the desk of*  
**Judi M. Stork**  
Deputy Commissioner  
Office of the State Bank Commissioner

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TO: The House Financial Institutions and Insurance Committee

RE: Senate Bill 538

DATE: March 8, 1994

Mr. Chairman and Members of the Committee:

During the past year it was brought to the attention of the Banking Department that a technical error exists within K.S.A. 9-1724. Because of this error, the department asked for the introduction of Senate Bill 538. K.S.A. 9-1724 relates to the merger, consolidation, or the purchase of assets and liabilities between a bank and another corporation. When reading this statute, it refers you to Chapter 17, to follow in part the provisions of the corporation code when completing a merger, consolidation or a purchase and assumption. In particular, it refers you to Article 67. However, if you look at Article 67 under Chapter 17, it only addresses mergers and consolidations. The transfer or purchase of assets and liabilities is found under Article 68. We are asking to have *or article 68* added to the language of K.S.A. 9-1724. To date, the department has not had any assertions by banks claiming we have no jurisdiction, however, we feel the language should be corrected to clarify any questions.

I will be pleased to answer any questions.

*Haue F.D.P.*  
*Attachment 4*  
*March 8, 1994*

# The Kansas Bankers Association

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March 8, 1994

TO: House Committee on Financial Institutions and Insurance

FROM: Chuck Stones, Director of Research  
Kansas Bankers Association

**RE: SB 539: Lending Limits for Active Officers and Employees of State Banks**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee on **SB 539** which will amend KSA 9-1104(b). This statute is the reference for determining the maximum amount that a state-chartered bank can lend to active officers and employees.

Currently, the liability of active officers and employees can not exceed 5% of the bank's paid-in and unimpaired capital stock and unimpaired surplus fund. In addition, any loan which will exceed \$10,000 must be approved by the bank's board of directors prior to the loan being made.

There are also exemptions and exceptions to this flat 5% rule contained in subsection (a), paragraphs (1) through (7). Generally, this means that when the collateral on a loan consists of certain property, the active officer or employee can have the lending limit bumped up 10% (to 25% total), or that the amount of the loan secured by that type of property will not be counted towards the total lending limit.

The proposed amendment to KSA 9-1104(b) is very simple. We would like to increase the lending limit for active officers and employees to 15%. Compared to federal law, our current statute is more restrictive. National banks under Federal Regulation O may lend up to 15% of unimpaired capital and unimpaired surplus to their directors, principal shareholders, and executive officers. There are also exemptions and exceptions under Regulation O which apply to these individuals, making it clear that there is truly a disparity between state and federal law.

The calculations for determining lending limits are very difficult, and especially so if the borrower is an active officer or employee of a state bank. State banks are not only regulated by our State Banking Department, but are also examined by a federal regulator - either the Federal Deposit Insurance Corporation (FDIC) or by the Federal Reserve (Fed). Regulation O states that these federal bank regulators will follow federal law, unless state law is more restrictive. This means that each state bank must compute the lending limit for each executive officer and employee under both Regulation O rules and under our state lending limit law, KSA 9-1104(b). The individual is then limited to whichever is the lowest of these two computations.

I have enclosed a chart that was prepared by our KBA staff attorney. This chart demonstrates the disparity in treatment for those individuals working in state-chartered banks. We believe that employees of state-chartered institutions should have the same rights as their national counterparts, as there are sufficient safe-guards in place with the State Banking Department so that no greater risk to safety and soundness of our institutions will be posed.

We respectfully request the Committee to report **SB 539** favorably for passage.

*House F.D.O.*  
*Attachment 5*  
*March 8, 1994*

REG O - LOANS TO INSIDERS

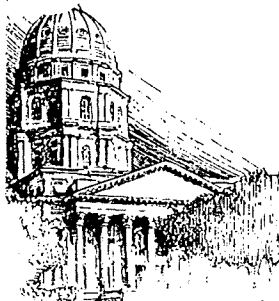
	NATIONAL BANKS	STATE BANKS	ALL BANKS
<b>Regular Lending Limit</b>  (Do not include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	15% of unimpaired capital and surplus. Special rules/exceptions for loans secured by livestock, seed and grain, first mortgages, CDs, U.S. agencies.	
<b>Director</b>  (Include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	If does <b>not</b> work in bank, lowest of: ◦ Amount in national bank column; or ◦ 15% of capital/surplus with exceptions.  If <b>works</b> in bank, lowest of: ◦ Amount in national bank column; or ◦ 5% of capital/surplus with exceptions.	<i>Aggregate limit for all insider loans (including related interests) of 100% of unimpaired capital/surplus.</i>  <i>Prior to May 18, 1993 200% of capital/surplus for banks with deposits of under \$100 million.</i>  <i>Continued</i>
<b>Principal Shareholder</b>  (Include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	If does <b>not</b> work in bank, lowest of: ◦ Amount in national bank column; or ◦ 15% of capital/surplus with exceptions.  If <b>works</b> in bank, lowest of: ◦ Amount in national bank column, or ◦ 5% of capital/surplus with exceptions.	
<b>Executive Officer</b> Education/Home Loans  (Include related interests)	15% of unimpaired capital and surplus, with an additional 10% if fully secured by readily marketable collateral. Note exceptions in 12 USC §84.	Lowest of: ◦ Amount in national bank column; or ◦ 5% of capital/surplus with exceptions.	
<b>Executive Officer</b> Other Purpose Loans  (Include related interests)	Highest of 2.5% of unimpaired capital and surplus or \$25,000. If using the 2.5% figure, cap at \$100,000.	Lowest of: ◦ Amount in national bank column; or ◦ 5% of capital/surplus with exceptions.	

*exemption not same*
*Continued*  
*Feb 18, 1994*
*5-9*

### Proposed Amendment to SB 539

35 (b) The liability of any active officer or employee of any bank  
36 shall not exceed ~~5%~~ 15% of the amount of its paid-in and unimpaired  
37 capital stock and unimpaired surplus fund. Any loan made to any  
38 officer first must be approved by the board of directors and entered  
39 upon their minutes where the total liability of the officer to the  
40 bank, including the loan made, will exceed ~~\$10,000~~. The limitations  
41 on liability of any active officer or employee under this subsection,  
42 shall be subject to the provisions of paragraphs (1) through (7) of  
43 subsection (a).

\$50,000



*From the desk of*  
**Judi M. Stork**  
Deputy Commissioner  
Office of the State Bank Commissioner

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TO: The House Committee on Financial Institutions and Insurance  
RE: Senate Bill 757  
DATE: March 8, 1994

Mr. Chairman and Members of the Committee:

I am here today on behalf of Commissioner Frank Dunnick and the Office of the State Bank Commissioner. We are asking the committee to favorably consider Senate Bill 757 which amends four sections of the Kansas Statutes and repeals one other.

First, we are asking you to amend K.S.A. 9-1703. This section sets out the assessments that are paid by banks and trust companies on a semi-annual basis. We are requesting this section be changed to include the savings and loan associations (S&L) and would charge them on the same basis as we charge banks and trust companies.

Secondly, we are asking you to amend K.S.A. 17-5610. This change allows our department to collect "call reports" from the S&Ls on a quarterly basis. Previously they were only required to report on a semi-annual basis. Currently the S&Ls are required to report to the Office of Thrift Supervision (OTS) quarterly. This would allow the department to keep more up-to-date information on the thrifts we regulate. The S&Ls are given the option of filing with us the same report they provide to the OTS.

Next, we are asking you to amend K.S.A. 17-5612 by deleting language that sets out the current assessments for S&Ls and the statute refers the reader to K.S.A. 9-1703. Currently the statute says that the Commissioner has to determine, prior to June 1 of each year, the expenses of the savings and loan department for the coming year and then assess the S&Ls for those expenses. Since there is only one S&L, and the cost associated with the regulation of it is very difficult to segregate, we are asking, by this amendment, to be able to keep the costs associated with the S&L with the expense of the banks and trust companies. If the department regulated numerous S&Ls, it would be appropriate to keep the income and expenses associated with such as separate budgets. With the regulation of only one S&L, it is not effective or efficient for us to do so. These amendments would allow the department to calculate our budget for the regulation of all institutions under our purview, and to assess such institutions on an equal basis.

*Handwritten:*  
Judi M. Stork  
Attachment 6  
March 8, 1994



March 8, 1994

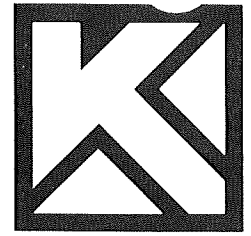
Page Two

We are also asking under an amendment to K.S.A. 75-1313, to abolish the savings and loan fee fund. This was attempted last year; however, it was not appropriately accomplished. We are offering the language on page five to make it very clear that the S&L fee fund is abolished.

Finally, we are asking you to repeal K.S.A. 17-5609 which requires the S&Ls to file an annual report with the Commissioner. We feel the reports required pursuant to K.S.A. 17-5610 are adequate to keep the department informed of any S&L's condition.

Thank you for your time and consideration. I would be happy to answer any questions.

# LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 567

March 8, 1994

## KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Financial Institutions and Insurance

by

Bud Grant  
Vice President and General Manager

Mr. Chairman and members of the Committee:

My name is Bud Grant and I am here this afternoon on behalf of the Kansas Retail Council, a major division of the Kansas Chamber of Commerce and Industry. I appreciate the opportunity to appear in support of SB 567.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

I know that you would agree that many things are different today from what they were in 1973, the year the Kansas Legislature passed the Uniform Consumer Credit Code. The Code itself has undergone considerable change thanks to the directions of succeeding legislatures. However, that part of the Code authorizing credit grantors to contract for and receive a delinquency charge has remained unchanged.

*Bud Grant*  
Attachment 7  
March 8, 1994

A delinquency charge is necessary because retail credit customers who fail to remit the monthly minimum payment by the agreed due date cause the retailer to incur additional costs in attempting to collect the past due payments. These collection costs are in addition to the normal costs incurred in extending credit and servicing the credit customer. These additional costs, if not prevented or recouped by the credit grantor, may show up in higher merchandise prices, meaning that cash customers and those who properly make their payments provide a subsidy to those who don't adhere to agreed payment terms.

The best public policy response to this obvious inequity is for Kansas retailers to be able to assess a late payment fee on delinquent credit customers at an amount which enables them to recover more of these additional costs. Under present law, late fees are limited to the lesser of 5% of the amount of the unpaid installment or \$25. Because retail credit balances are low (generally under \$300) the monthly payment is typically \$30 or less. This means that often the maximum late fee a Kansas retailer can collect is \$1.50, or even less. Yet, as noted below, the cost of attempting to collect delinquent payments for one Kansas retailer is, on average, \$6.39 per account.

Besides allowing the retailer to offset the additional costs incurred, late fees also provide an incentive for the customer not to miss the payment in the first place, which is something the current \$1.50 does not do. Bills that are subject to late fees get put at the top of the stack to be paid while those that do not have a meaningful late fee are not paid.

For most retailers, finance charge revenue is less than the cost of running a credit operation. A finance charge is imposed to try to offset the normal costs of running a credit program and it is based on people complying with the payment terms they agreed to. When they don't comply, added costs are incurred and these costs are what late fees are intended to minimize and to help offset.

Mr. Chairman and members of the Committee, imposing a late payment fee on the customer who fails to keep the payment agreement is common in many consumer transactions. Utilities, doctors, lawyers, home mortgages, units of government and automobile lenders all charge late fees. Allowing a fee which lets retail open-end creditors recover more of their costs would equitably put the extra collection cost on those customers who make the added expense necessary.

Presently the majority of states authorize a late payment fee for retail credit in excess of that allowed by Kansas, including neighbors like Colorado, Oklahoma, and in most instances, Missouri.

Finally, Kansas credit grantors must compete against late charge fees being imported into the state by out-of-state banks. While we are not asking for parity, we are asking for your assistance in leveling the playing field.

Thank you Mr. Chairman. I would be pleased to attempt to answer any questions.

**Collection Costs vs. Anticipated Late Fee Revenues**

<u>Collection Expense</u>	<u>% of Collection Expenses</u>
Payroll	58.4%
- Manager	
- Supervisor	
- Collectors/Clerical	
Benefits	8.5%
Supplies	3.5%
Credit Bureau Expense	1.6%
Outside Collection Cost	0.0%
Letter Expense	7.8%
Telephone Costs	11.5%
Data Center Costs	8.7%

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Average Balance Per Delinquent Account	\$269
Late Fee Revenue Per Account	\$1.29
Cost Per Account	\$6.39



# KANSAS

Office of CONSUMER CREDIT COMMISSIONER

Joan Finney  
Governor

Wm. F. Caton  
Commissioner

TESTIMONY  
SENATE BILL 567  
HOUSE FINANCIAL INSTITUTIONS AND INSURANCE  
MARCH 8, 1994  
WM. F. CATON

Thank you for the opportunity to appear before you today to testify on behalf of Senate Bill 567. Senate Bill 567 amends the Kansas Uniform Consumer Credit Code which provides for an alternative method of computing a delinquency charge on consumer credit transactions. The present delinquency charge computation is 5% of the unpaid installment with a maximum of \$25. The alternative proposed in this bill will allow creditors up to \$5 delinquency charge on scheduled payments of \$25 or less and \$10 on scheduled payments over \$25. This bill only affects consumer credit transactions that have scheduled monthly installments of less than \$200.

This bill allows creditors to reasonably recuperate the cost of sending delinquency notices. This bill also provides an additional incentive for consumers to promptly pay small credit obligations. Under the present system a hypothetical \$30 payment generates a \$1.50 delinquency charge, which is insufficient to cover the creditor's expense in notifying the consumer of such delinquency. Many retail credit grantors are allowed to use rates imported from other states which carry higher delinquency charges than Kansas allows. The industry is concerned that our present delinquency charge statute encourages relatively small consumer credit transactions to be given a lower priority for payment by the borrower.

I am not an advocate of consumers buying nonessential goods with very low monthly payments. To often the retailer does not perform an adequate credit analysis, because the amount of the retail sales installment contract and the payments are not large enough to warrant the time or expense. I would encourage all retailers who rely on credit to sell their goods and services to perform a more thorough credit analysis than what is presently performed. Many times the only criteria to grant credit is if the consumer is current on a major credit card, which does not tell the whole story.

This bill includes amendments suggested by this office which limits delinquency charges to \$5 on payments of \$25 or less. It is my opinion that Senate Bill 567 provides fairness and equity to both the borrower and creditor. This bill encourages small borrowers to pay their bills promptly, and will also minimize losses to small Kansas retail companies already burdened with competition from major retail chain stores which take their profits out of Kansas.

*Wm F Caton*  
*Attachment 8*

*March 8, 1994*

# DELINQUENCY CHARGE ANALYSIS

PRESENT DELINQUENCY CHARGES		
PAYMENT	CHARGE	% CHARGE
\$10.00	\$0.50	5.0%
\$15.00	\$0.75	5.0%
\$20.00	\$1.00	5.0%
\$25.00	\$1.25	5.0%
\$30.00	\$1.50	5.0%
\$35.00	\$1.75	5.0%
\$40.00	\$2.00	5.0%
\$45.00	\$2.25	5.0%
\$50.00	\$2.50	5.0%
\$55.00	\$2.75	5.0%
\$60.00	\$3.00	5.0%
\$65.00	\$3.25	5.0%
\$70.00	\$3.50	5.0%
\$75.00	\$3.75	5.0%
\$80.00	\$4.00	5.0%
\$85.00	\$4.25	5.0%
\$90.00	\$4.50	5.0%
\$95.00	\$4.75	5.0%
\$100.00	\$5.00	5.0%
\$105.00	\$5.25	5.0%
\$110.00	\$5.50	5.0%
\$115.00	\$5.75	5.0%
\$120.00	\$6.00	5.0%
\$125.00	\$6.25	5.0%
\$130.00	\$6.50	5.0%
\$135.00	\$6.75	5.0%
\$140.00	\$7.00	5.0%
\$145.00	\$7.25	5.0%
\$150.00	\$7.50	5.0%
\$155.00	\$7.75	5.0%
\$160.00	\$8.00	5.0%
\$165.00	\$8.25	5.0%
\$170.00	\$8.50	5.0%
\$175.00	\$8.75	5.0%
\$180.00	\$9.00	5.0%
\$185.00	\$9.25	5.0%
\$190.00	\$9.50	5.0%
\$195.00	\$9.75	5.0%
\$200.00	\$10.00	5.0%
\$205.00	\$10.25	5.0%
\$210.00	\$10.50	5.0%
\$215.00	\$10.75	5.0%
\$220.00	\$11.00	5.0%
\$225.00	\$11.25	5.0%
\$230.00	\$11.50	5.0%
\$235.00	\$11.75	5.0%
\$240.00	\$12.00	5.0%
\$245.00	\$12.25	5.0%
\$250.00	\$12.50	5.0%

ALTERNATE DELINQUENCY CHARGES		
PAYMENT	CHARGE	% CHARGE
\$10.00	\$5.00	50.0%
\$15.00	\$5.00	33.3%
\$20.00	\$5.00	25.0%
\$25.00	\$5.00	20.0%
\$30.00	\$10.00	33.3%
\$35.00	\$10.00	28.6%
\$40.00	\$10.00	25.0%
\$45.00	\$10.00	22.2%
\$50.00	\$10.00	20.0%
\$55.00	\$10.00	18.2%
\$60.00	\$10.00	16.7%
\$65.00	\$10.00	15.4%
\$70.00	\$10.00	14.3%
\$75.00	\$10.00	13.3%
\$80.00	\$10.00	12.5%
\$85.00	\$10.00	11.8%
\$90.00	\$10.00	11.1%
\$95.00	\$10.00	10.5%
\$100.00	\$10.00	10.0%
\$105.00	\$10.00	9.5%
\$110.00	\$10.00	9.1%
\$115.00	\$10.00	8.7%
\$120.00	\$10.00	8.3%
\$125.00	\$10.00	8.0%
\$130.00	\$10.00	7.7%
\$135.00	\$10.00	7.4%
\$140.00	\$10.00	7.1%
\$145.00	\$10.00	6.9%
\$150.00	\$10.00	6.7%
\$155.00	\$10.00	6.5%
\$160.00	\$10.00	6.3%
\$165.00	\$10.00	6.1%
\$170.00	\$10.00	5.9%
\$175.00	\$10.00	5.7%
\$180.00	\$10.00	5.6%
\$185.00	\$10.00	5.4%
\$190.00	\$10.00	5.3%
\$195.00	\$10.00	5.1%
\$200.00	\$10.00	5.0%
\$205.00	\$10.25	5.0%
\$210.00	\$10.50	5.0%
\$215.00	\$10.75	5.0%
\$220.00	\$11.00	5.0%
\$225.00	\$11.25	5.0%
\$230.00	\$11.50	5.0%
\$235.00	\$11.75	5.0%
\$240.00	\$12.00	5.0%
\$245.00	\$12.25	5.0%
\$250.00	\$12.50	5.0%