Approved: February 4, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:11 a.m. on February 3, 1994 in Room 529-S of the Capitol.

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

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

Conferees appearing before the committee: Senator Bill Wisdom
Bill Overton, Kansas City, KS
Bud Grant, KCCI
George Barbee, KS Association of Financial Services
William Caton, Consumer Credit Commissioner
Art Brown, Mid-American Lumbermens Association

Others attending: See attached list

Senator Steffes made a motion to approve the minutes of the meeting of February 2 as submitted. The motion was seconded by Senator Praeger. The motion carried.

The chairman opened the hearing on **SB 515**, amending the UCCC concerning finance charges for consumer credit sales. Senator Bill Wisdom , appeared before the committee and explained that this legislation was introduced at the request of a constituent and would reduce the interest rates on the unpaid balance on consumer credit accounts, keeping Kansas more in line with other states.

At Chairman Bond's request, Dr. William Wolff, Legislative Research, clarified that the bill would establish interest rates for closed-end consumer credit sales, lowering them from 21% to 18% for the first $1,000 balance and from 14.45% to 12% on the unpaid balance over $1,000 or, as an alternative, 15% on the unpaid balance. The current rates have not been changed since the statute was written. This legislation would only affect "private labels"; i.e., department store charge accounts, oil company credit cards, and other retail sales credit arrangements.

Bill Overton, Kansas City, Kansas, appeared to encourage the committee to support this legislation and to explain how the bill originated. Mr. Overton stated that it is his opinion that Kansas should charge interest rates more in line with other states.

Bud Grant, KCCI, appeared in opposition to this legislation, stating that statutory ceilings that are artificially low mean less available credit and higher consumer prices. (Attachment #1.) In response to Senator Lee's question, Mr. Grant explained that other states can offer lower interest rates by charging higher retail prices.

George Barbee, Kansas Association of Financial Services, also appeared as an opponent to **SB 515**, and stated that deregulation, in his opinion, would be a more viable alternative and agreed with Senator Steffes that the marketplace should determine prices. (Attachment #2.)

William Caton, Consumer Credit Commissioner, also appeared in opposition to this legislation, stating that he could see nothing to be gained by changing rates because the rates represent a ceiling and the market place determines the actual rate charged..

There being no further conferees, the hearing on **SB 515** was closed.

Hearing was opened on **SB 567**, concerning delinquency charges on past-due credit accounts. Bud Grant, KCCI, appeared as a proponent of this legislation and clarified the language on lines 18-19 of the bill. (Attachment #3.) The statute now has a ceiling that cannot exceed 5% of the payment due, or $25.00. This bill would establish that a $10.00 penalty could be assessed as a minimum delinquency charge.

William Caton, Consumer Credit Commissioner, appeared before the committee as a proponent of the bill, but stated that he finds the language confusing and recommended rewording. (Attachment #4.)

George Barbee, KAFS, appeared in support of the concept of the bill, but also suggested that the language should be amended for purposes of clarification. (Attachment #5.)

Art Brown, American Lumbermens Association, also appeared as a proponent of **SB 567**. (Attachment #6.) Mr. Brown stated that although the changes may not be an incentive to pay past due bills, it would help business recoup expenses connected with collection of past due accounts.

The hearing on **SB 567** will be continued pending development of clearer language.

SB 568, scheduled to be heard in today's meeting, will be placed on the agenda for Friday's meeting.

The committee adjourned at 9:59 a.m.

The next meeting is scheduled for Friday, February 4, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE   DATE: 2-3-94

NAME	ADDRESS	ORGANIZATION
George Barbee	Topeka	KAFS
Bill OVERTON	K.C., Ks	
Charles Cathey	KC, KS	
Kathy Sexton	Topeka	Div. of Budget
Tom Robison	Jeff City, Mo.	Beneficial
Chuck Stones	Topeka	KBA
Bill Caton	Topeka	Consumer Credit
Dave Grant	TOPEKA	KCCI
Art Brown	Topeka	KS. LBR Dealers
Kathy Taylor	Topeka	KS Bankers Assn.
Jeff Sonnich	Topeka	KAIFS
[illegible] McCormick	"	KS Life Ins Assn / KS P.C. Assn
James S Maag	"	KBA
Libby Quaid		AP

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

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

SB 515

February 3, 1994

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate 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. I am here today on behalf of the Kansas Retail Council, a major division of the Kansas Chamber of Commerce and Industry. I appear in opposition to the passage of SB 515.

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.

Of the 50 states, 21 have now deregulated consumer credit rates and allow the market place to establish what is competitive and fair to the consumer and to the credit grantor. An additional 15 states have a rate of 21% or more, leaving just 13 with less than Kansas' current 21% and two of those authorize 20.4%.

Senate FI&I
2-3-94
attachment #1

Two points...virtually all of the states that are making changes are moving in the direction of deregulation, not more regulation. Second, those 38 states that match or exceed Kansas' rates, have recognized that in the case of retail credit, the cost of money is not the driving factor in establishing finance charges on open and closed-end credit sales.

A 1992 survey among several retailers was conducted to update credit extension information. Here's what was found, assuming a $200 average balance per account:

Total finance charge revenue: $30.19

Total Credit Costs:

- Cost of funds	$13.88
- Bad Debt expense	6.89
- Operating costs	14.55
Total costs	$35.32

Excess/(Deficiency), Revenue over costs ($5.13)

As this information indicates, the cost of providing consumer credit services is determined as much or more by operating expenses (wages, postage, data processing and equipment, etc.) and bad debt losses as by the cost of funds. Publicity in recent years concerning falling short-term market interest rates has led many to expect similar decreases in credit card rates. In reality, however, prevailing retail finance charge rates have not been sufficient for most retailers to cover their total credit costs for many years. Look briefly at what has happened to just two of the many costs associated with credit services:

Cost Factor	1979	1992	% Increase
Postage	$0.15	$0.29	93.3%
Employment Cost Index*			
- Wages & Salaries	60.8	111.9	95.5%
- Benefits	52.5	121.0	130.5%
Total	58.5	114.4	95.5%

*June, 1989 = 100% Dept. of Labor, Bureau of Labor Statistics

Although the trend is clearly toward removal of all statutory ceilings on retail credit card rates, as I mentioned above, many states still have some form of rate ceilings on the books. Do these ceilings which remain actually achieve what they were designed to do? An increasing number of factors are at work in the market place rendering these statutory ceilings largely ineffective. For instance:

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(1) Under the so-called Marquette Decision (Marquette National Bank v. First of Omaha Service Corp., 1978), a national bank is not limited by the rate allowed in the state where a customer resides, but is free to charge as much as allowed by the state where the bank is located. Therefore a bank can "export" its rate to states which have lower ceilings. As more and more consumers opt to use bank cards, this ability to "export" rates means that any individual state has less and less control over rates paid by its residents.

(2) With increasing frequency, large to medium size retail firms are relying on banks who are operating "private-label" third-party credit card plans for them. While having the retailer's name on them, the operations are run by a national bank not subject to state rate restrictions.

(3) Finally, large retailers are applying for charters as national "credit card banks," which gives them the same degree of rate freedom as that enjoyed by other banks on their cards.

The ultimate effect of such developments is that state restrictions on retail credit card rates impact largely on smaller local retailers who do not have the opportunity to pursue these options. Their only alternatives are to restrict credit availability and to charge higher merchandise prices in order to offset losses from credit programs that result from restrictive finance charge rates. Thus, smaller Kansas merchants are at a disadvantage compared to those operating credit plans through private-label programs or credit card banks in two ways: (1) since their finance charge rates are restricted, they cannot afford to offer credit to as broad a market segment as can their competition; and (2) they may find their out-of-state competitors charging lower prices because their credit programs are less likely to produce losses which must be recovered through merchandise prices.

Mr. Chairman and members of the Committee, for several years during the late 70's and early 80's, the Legislature would revisit this subject every two years, and would consistently reach the same conclusion. If rates were to be regulated, 21% was the fairest rate to both the credit grantor and the consumer. Finally, the rate was made permanent.

This bill once again asks you, as a legislator, to understand the credit needs of the consumer and the credit grantor, and what is best for each. Bottom line...statutory ceilings that are artificially

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lo.. mean less available credit and higher consumer prices. Your predecessors reached that conclusion time and time again. I ask you to support it again.

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

A National Comparison Of Retail Credit Card Rate
Open Competitive Market States

Arizona
California
Connecticut
Delaware
Florida
Idaho
Illinois
Kentucky
Louisiana
Montana
Nevada
New Hampshire
New Jersey
New Mexico
New York
Oregon
South Carolina
South Dakota
Utah
Virginia
Washington

25% Limit
Ohio

24% Limit
Hawaii
Maryland
District of Columbia

21% Limit
Colorado
Georgia
Indiana
Mississippi
Oklahoma
Tennessee
Texas
Vermont
Wyoming

21% on First $800 of Balance
(18% Over)
North Carolina

21% on First $750 of Balance
(18% Over)
Alabama

21% on First $1,000 of Balance
(14.4% Over)
Kansas

21% on First $500 of Balance
(18% Over)
Nebraska

20.4% Limit
Michigan

20.04% Limit
Missouri

19.8% Limit
Iowa

18% Limit
Alaska
Massachusetts
Maine
Minnesota
North Dakota
Pennsylvania
Rhode Island
West Virginia
Wisconsin

17% or Below
Arkansas

FI+I 2/3/94

Revised 6/93 1-5

The Kansas Association of Financial Service
George Barbee, Executive Director
Jayhawk Tower, 700 SW Jackson, Suite 702
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913/233-0555 Fax: 913/357-6629

Statement to:
Senate Committee on Financial Institutions and Insurance on
Senate Bill 515

Mr. Chairman and members of the committee my name is George Barbee appearing in opposition to Senate Bill 515 on behalf of the Kansas Association of Financial Services in opposition to Senate Bill 515. KAFS is an association of finance companies with approximately 100 offices in Kansas.

Senate Bill 515 seeks to lower the ceiling on interest rates for non-open end and open end consumer credit sales transactions.

We believe credit rates are market driven based on competitive rates and the risk involved. If the rate ceiling is below market rate:

1. Credit becomes less available, or in some cases, is not offered at all, as creditors move their funds to other businesses or other places. For example, it can reduce consumer credit financing in one state and offset this with an increase in credit granted in another state.

2. Financing for these transactions becomes less available, particularly to high risk consumers. Their demand for credit remains unsatisfied. And, retailers do not make the sales.

3. They may grant credit only to the more affluent and lower risk customers.

The consumers who suffer most from such practices are the very persons that rate ceilings are suppose to protect.

Historically, rates go up and down with the market as inflation impacts interest rates and financing. We do not believe it to be efficient government to change the statutes every time we swing from one inflationary period to another. If the economists are correct and we see a raising of interest rates due to inflation, we would find ourselves looking at this statute again to make adjustments to the ceiling. Just this week Mr. Greenspan announced that he would be raising short term interest rates to cool the economic growth and prevent an ignition of inflation.

Senate FI&I

2/3/94
Attachment #2

If you really want to do something progressive, you might consider joining approximately 25 other states that have deregulated the interest rates. They understand that money is a consumer product. Banks and other lenders buy that product wholesale from depositors or other lenders. In the case of consumer finance companies, we buy from other lenders. They then sell that product at retail to consumers that need credit. There is no more justification for limiting the rate of interest in such a transaction than there is in setting a price limit on the sale of anything else, such as automobiles, houses, wheat, etc. The market sets the price, as it should be.

Perhaps it was best said by Massachusetts State Representative Richard Henry Dana when he said "I shall vote for the repeal of the usury laws because I do not think they aid the borrower but rather bring him to a worse condition then he would be in, in an open market. They have balked the human purposes that gave them life. I vote for their repeal, because I think them in violation of the immutable laws of trade, and therefore necessarily leading to evil; because they are of no effect when the market rate is below or equal to the legal rate, and, when it is above, tend to frighten away capital, induce chicanery, circumventions, frauds and go-betweens, and to introduce the borrower to the worst class of lenders."

Those comments were delivered February 14, 1867, and I believe old Richard had it right.

The membership of the Kansas Association of Financial Services asks you to recommend this bill unfavorably.

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LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

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SB 567 February 3, 1994

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate 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 morning 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.

Senate FI&I
2/3/94
Attachment #3

Retail credit customers who fail to remit their 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.

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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

Collection Expense	**% of Collection Expenses**
Payroll - Manager - Supervisor - Collectors/Clerical	58.4%
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%

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

FI&I 2/3/94
3-3

KANSAS

Office of Consumer Credit Commissioner

Joan Finney
Governor

Wm. F. Caton
Commissioner

TESTIMONY FOR SB 567
FEBRUARY 3, 1994
BILL CATON, CONSUMER CREDIT COMMISSIONER

Thank you for the opportunity to testify before you today.

I am somewhat confused what the intent of SB 567 really is. As worded, it creates two alternatives in assessing late charges on consumer credit transactions: 5% of the late payment up to a maximum of $25 (which is the current allowable charge), or any amount not to exceed $10. What this amendment effectually does is set a minimum late charge of $10 for those creditors whose portfolio includes loans with monthly payments less than $200.

I do understand the actual transaction cost of issuing a late notice is the same regardless of the size of the payment. Last year, legislation was enacted that requires interest to be figured on all consumer credit transactions on an actuarial basis, rather than a "precomputed basis" which allowed creditors to figure interest on 30 day/ 360 day year basis without regard to considering the actual day the payment was made. One reason delinquent charges were calculated on a percentage was to compensate the creditor for lost earnings on the delinquent payments. Now, that is not the case as interest is figured on the loan from payment date to the next payment date. However, there are still some lost opportunity costs related to late payments.

I am concerned about the smaller credit transactions on consumer goods that spread the payments out over a long period of time. These transactions usually carry the maximum allowable interest charges and provide retailers an opportunity to sell moderately priced goods ($200 to $1,000) to consumers who generally live at their maximum budget allowance or beyond. I frequently see advertisings by retail chains advertising consumer goods for virtually nothing down and extremely low payments ($10 to $30 per month).

I suggest that a $10 late fee on a $15 monthly payment 10 days late might be excessive to the consumer of limited means. However, a $10 late charge on a $100 payment may not be excessive. But, in either case, it does not address the concept that the actual cost of sending a late notice is irrelevant to the size of the payment.

I do not have an alternative recommendation because I have not researched the economics of this topic; but I do feel the present wording is inadequate and I would prefer an alternative maximum be expressed as a minimum, which is what it will be in reality if passed.

Thank you for allowing me to express my views on this bill. I will be happy to answer any questions and provide any additional information you might request.

Senate F I & I
2-3-94
Attachment #4

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The Kansas Association of Financial Service
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Statement to:
Senate Committee on Financial Institutions and Insurance on
Senate Bill 567

Mr. Chairman and members of the committee my name is George Barbee and I am appearing on behalf of Kansas Association of Financial Services in support of Senate Bill 567.

The wording of the amendment is somewhat confusing, but as I understand it the intent is to allow a $10 minimum delinquency charge for accounts that are delinquent more than 10 days.

As explained by Mr. Grant in his statement, the present statute allows a 5% charge or $25, whichever is less, on installment payments more than 10 days delinquent.

When installment payments are on the low end of the scale, the 5% allowed is not enough to cover the repeated cost of delinquency notices and the added cost of bookkeeping and accounting.

It is too easy for the borrower to ignore a payment of $10, when the penalty is only 50¢ for one month.

This $10 minimum would not only recover the additional cost to the lender, it would provide some penalty to the borrower, which would be an incentive to pay as agreed in the consumer credit transaction.

The membership of the Kansas Association of Financial Services asks you to report the bill favorably as proposed.

Senate FI&I
2-3-94
Attachment #5

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MID-AMERICA LUMBERMENS ASSOCIATION
MLA
ARKANSAS KANSAS
MISSOURI NEBRASKA
OKLAHOMA

Testimony Before the Senate Financial Institutions & Insurance Committee

Senate Bill 567 February 3, 1994

Mister Chairman, members of the Senate Financial Institutions and Insurance Committee, I am sorry that I cannot appear before you in person today (February 3, 1994) to testify as a proponent on SB 567. A prior conflict made my personal appearance before you impossible.

We support the intent of this legislation, as it would be a way for many of our smaller business units to recapture some of the costs they incur with delinquent accounts.

We realize that many of the urban centers of this State, as well as the entire country, are becoming more accustomed to doing business with some type of credit card. This certainly alleviates much of the receivables problems with many small businesses.

So many of our members, however, are located in rural areas, where having a personal account, on a ledger or installment system, is still very much the norm.

Because of this type of a bookkeeping system, there will be occasions, for whatever reasons, that balances on accounts are not paid in full at the time they are due; or, more likely, are paid at a time past the terms the dealer has stated in their credit policies.

LUMBER GROWS ON TREES

(please continue)

Senate FI&I
2/3/94
Attachment #6

Naturally, the dealer will try to work with these accounts to bring them up to a current status and within the time period of the dealer's credit terms. This is often times easier said than done.

This bill gives the affected party a way to reclaim some of the costs incurred for such an inconveniene.

We would not be in any type of position to tell how much of a deterrent this is for someone to pay their bill within the stated credit terms a dealer has. It does, however, help the dealer reclaim some cost, and this we feel is important, and so do the dealers.

This measure by itself may not seem like a strong tool to aid in keeping a merchant's books in order in relation to their credit terms. It is, however, when included with other remedies available to the business owner, another device which can be implemented to help generate a better cash flow for the business and, as such, we encourage this Committee to look favorably on this legislation and vote as a Committee for favorable passage of this bill.

We appreciate your consideration of SB 567 and our concerns of same. I will be available at a time of mutual convenience to us both for any further discussion on this bill, or to answer any questions you may have.

* * * * * * * *

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