

Approved: February 8, 2011  
Date

## MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Forrest Knox at 3:30 p.m. on January 27, 2011, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Cindy Lash, Kansas Legislative Research Department  
David Wiese, Revisor of Statutes' Office  
Sean Ostrow, Revisor of Statutes' Office  
Gary Deeter, Committee Secretary

Conferees appearing before the Committee:

Judi Stork, Deputy Bank Commissioner, Office of the State Bank Commissioner  
Ed Splichal, Acting Bank Commissioner, Office of the State Bank Commissioner  
Kevin Glendening, Deputy Commissioner for Consumer and Mortgage Lending, Office of the State Bank Commissioner

Others attending:

See attached list.

The Chair recognized Vice-chair Proehl, who requested the committee sponsor a bill. He introduced Doug Mays, Kansas Governmental Affairs, who, representing the city of Olathe, requested a bill dealing with Tax-Increment Financing (TIF). He explained that the proposed bill would allow two things: financing of infrastructure outside the TIF district but contiguous if determined by the city to be necessary when implementing the TIF plan, and allow cities to commit only a portion of their sales tax (instead of 100%) for TIF just as they are currently allowed to do for the property tax increment. A motion was made, seconded, and passed unanimously to introduce the bill. (Motion, Representative Montgomery; second, Representative Grant)

The Chairman opened the hearing on **HB 2056** - Financial institutions; trust examinations and annual assessments.

Staff David Wiese briefed the committee on the bill, saying that the bill changes the annual reporting date that the Office of the State Bank Commissioner uses to assess institutions from March 31 to December 31.

Judi Stork, Deputy Bank Commissioner, Office of the State Bank Commissioner (OSBC), spoke as a proponent for the bill, saying that changing the date will assist the agency in determining assessments in a more timely manner (Attachment 1).

The Chairman closed the hearing on **HB 2056** and invited members to consider recommendations for the bill. A motion was made by Representative Proehl, seconded by Representative Grant, to pass the bill favorably from the committee and place it on the House Consent Calendar. The motion passed unanimously.

## CONTINUATION SHEET

Minutes of the House Financial Institutions Committee at 3:30 p.m. on January 27, 2011, in Room 152-S of the Capitol.

The committee minutes for January 18 were approved as printed. (Moved by Representative Gregory and seconded by Representative Fawcett)

The Chair welcomed Ed Splichal, Acting Bank Commissioner, OSBC, who provided an overview of the agency ([Attachment 2](#)). He outlined the five divisions of the agency: Banking and Trust, Consumer and Mortgage Lending, Legal, Administration, and Information Technology (IT). He commented on the Administration Division (budget preparation, FY 11 \$9.2 million), the Legal Division (interpreting relevant laws and regulations and providing enforcement actions), and the IT Division.

Judi Stork continued the presentation, outlining the activities of the Banking and Trust Division. She explained that, of the 313 banks in Kansas, 73 are national banks regulated by the Office of the Comptroller of the Currency, 41 state banks are members of the Federal Reserve (regulated cooperatively by the OSBC and the Fed), and 199 state banks are dually regulated by the Federal Deposit Insurance Corporation and the OSBC. She commented on details of the examination process and noted other duties of the Division. Members offered comments and asked questions about the regulation process and the CAMELS (Capital, Assets, Management, Earnings, Liquidity, and Sensitivity to Market Risk) rating system; some members expressed concern that 18 Kansas banks were rated a 4 or 5 in 2010. Ms. Stork concluded by noting that the Division also has licensing authority and oversight over 53 money-transmitting services.

Kevin Glendening, Deputy Commissioner for Consumer and Mortgage Lending (CML), OSBC, summarized the activities of the CML Division, observing that the Division enforces a number of state and federal codes as well as supervises 7023 mortgage and consumer lending entities that hold about \$269 billion in assets. He reviewed the examination process, noting that the Division returned over \$46 million to consumers in 2010. He commented that the Division provides a variety of educational programs, grants, and public service information. Answering questions, Mr. Glendening replied that tracking multiple mortgage sales is difficult, that fines are statutory, and that the usury rate is regulated differently for payday loans. A member requested further information regarding payday loan regulations.

The meeting was adjourned at 5:00 p.m. The next meeting is scheduled for Tuesday, February 1, 2011.

**HOUSE FINANCIAL INSTITUTIONS COMMITTEE  
GUEST LIST**

DATE: JANUARY 27 2011

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Edwin G. Splichal, Acting Commissioner

Office of the State Bank Commissioner

Sam Brownback, Governor

HOUSE FINANCIAL INSTITUTIONS COMMITTEE  
January 27, 2011

Mr. Chairman and Members of the Committee:

My name is Judi Stork and I am the Deputy Bank Commissioner with the Office of the State Bank Commissioner. I am here today to speak in support of House Bill 2056.

This bill amends K.S.A. 9-1703 which is the banking statute that outlines how we assess our banks and trust companies. These annual assessments, which are made in July of each year, fund the activities of the banking division of our agency. This is a simple amendment that changes the date of the report on which we base our assessment for trust departments of banks. Currently, the statute requires the agency to assess the trust departments based on the amount of assets reflected in the bank's March 31 report of condition to the Federal Deposit Insurance Corporation. We recently determined that not all trust departments are required to report their trust assets on the March report of condition. In general, trust departments that have less than \$250,000,000 in fiduciary assets, are only required to submit trust asset information annually on the December 31 Report. Because of this, as can be seen on page one, line 33, we are asking the assessments to be based on the December call report information, instead of using the current March date.

Also in this bill, beginning on page two, line seven, our agency can grant inactive status to a trust department that reports zero assets on their call report. We need to change the language in this section of the bill to use the December call report information, versus the current March information, for the same reason noted above.

Thank you for your time and consideration. I would ask the committee for your favorable support of this bill. I would be happy to answer any questions for the committee.

Attachment 1  
H FIC 1-27-11





## Office of the State Bank Commissioner

# Overview of the Office of the State Bank Commissioner for the House Financial Institutions Committee

January 27, 2011

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## Agency Structure

- The Office of the State Bank Commissioner is divided into five main areas:
  - Division of Banking and Trust
  - Consumer and Mortgage Lending Division
  - Legal Division
  - Division of Administration
  - Division of Information Technology
- Employ 99 full time staff with four full time temporary positions and two part time employees.





# Division of Administration

- **Annual Budget Preparation**

Preparation of Executive and Legislative Branch Appeals  
Preparation of Budget Summaries for Legislative Committees  
FY 11 Budget - \$9,150,741

- **Other**

Inventory Control  
Facilities Management  
Strategic Planning Oversight  
Fleet Management

- **Financial Accounting System**

Accounts Receivable & Payable  
Annual Assessments  
Purchasing  
Financial Reporting & Forecasting

- **Human Resource Function**

Recruitment  
Benefits  
Employer/Employee Relations  
Personnel Policies  
Payroll

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# Legal Division

- Provide interpretations of laws and regulations enforced by the OSBC, to OSBC examiners, industry professionals, consultants and other attorneys
- Bring administrative enforcement actions against entities licensed and regulated by the OSBC, and against unlicensed entities. Represent the OSBC in hearings conducted in accordance with the Kansas Administrative Procedure Act, and negotiate voluntary settlements of those actions where appropriate
- Draft proposed legislation, testimony and fiscal notes during the legislative session, and draft administrative regulations as needed
- Provide legal advice on personnel and policy matters as needed
- Receive and act on all consumer complaints

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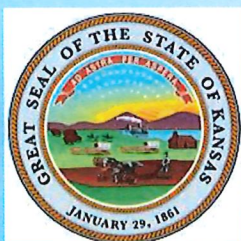


# Division of Information Technology Responsibilities

- IT Exams on State Banks
- Local Area Networks and Servers
- Databases
- Internet Website ([osbckansas.org](http://osbckansas.org))
- Telecommunications
- Security and User Policy
- Technical Support
- Purchasing and Planning

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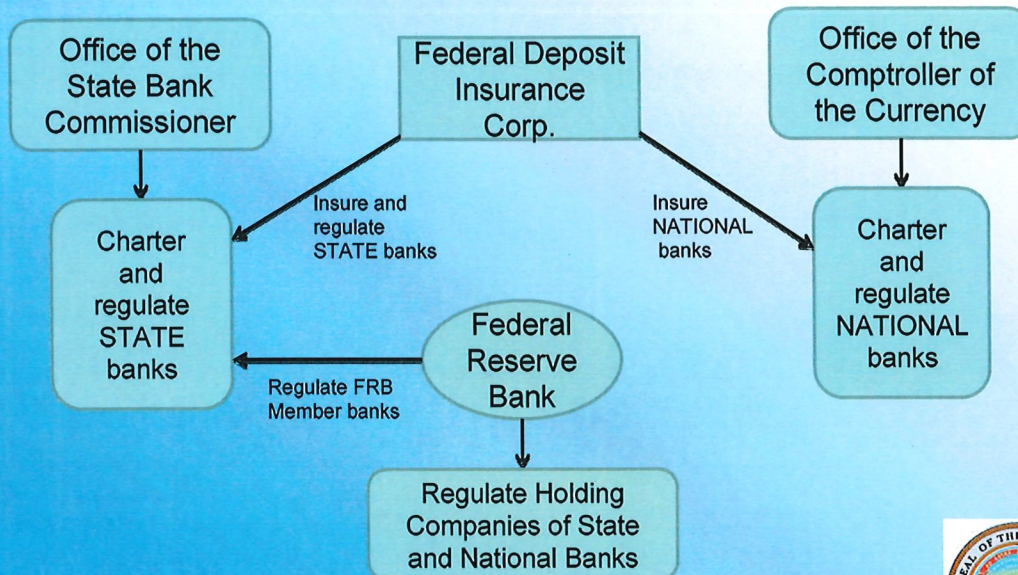
*Office of the State Bank Commissioner*

## Division of Banking and Trust

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# Division of Banking and Trust



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## Division of Banking and Trust

### KANSAS BANKS

#### 240 State Banks

- 41 State Banks are members of the Federal Reserve Bank.

These bank are regulated by the Office of the State Bank Commissioner and the Federal Reserve Bank

- 199 State Banks are regulated by the Office of the State Bank Commissioner and the Federal Deposit Insurance Corporation.

#### 73 National Banks

- Regulated by the Office of the Comptroller of the Currency.

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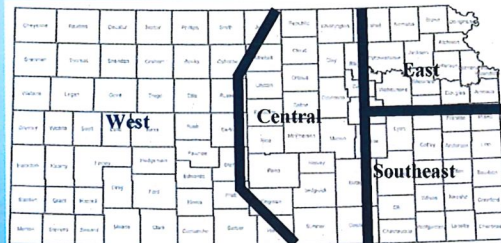
# Division of Banking and Trust

- Statutory Duty to Examine all Banks and Trust Companies once every 18 month period
- In completing this responsibility we alternate examinations with the FDIC and the FRB as well as complete joint examinations
- Currently we supervise 240 state chartered banks, 40 active trust departments, and 10 trust companies
- Total bank assets under supervision as of 9-30-10 was \$30,261,753,000
- Additionally, we regulate 53 money transmitter companies

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# Division of Banking and Trust



## West Region

- 56 banks
- Field Offices: Dodge City & Hays

## Central Region

- 72 Banks
- Field Offices: Salina & Wichita

## East Region

- 73 banks
- Field Offices: Lenexa & Topeka

## Southeast Region

- 38 Banks
- Field Office: Erie

## Trust •10 Trust Companies & 40 Active Trust Departments

- Field Offices: Topeka and Overland Park

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# Division of Banking

## Examination Process

1. Notification of examination and disbursement of the pre-note packet to the bank or trust company
2. Review of provided information off-site
3. On-site review
4. Completion of examination report off-site
5. Submittal of draft examination report to the main office
6. Transmittal of final report to the bank or trust company

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# Division of Banking

## Examination Process

The examination is broken into three general areas of review:

1. Management and Directorate Assessment
2. Loan and Asset Review
3. Operations

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# Division of Banking Examination Process

## 1. Management and Directorate Assessment

- Evaluate staffing levels & competency
- Evaluate management information systems and reporting
- Review the board minutes for content and compliance with banking laws
- Note any deficiencies, weaknesses or strengths with management or any aspect of management



# Division of Banking Examination Process

## 2. Loan and Asset Review

- Thoroughly review the loan portfolio for general credit worthiness and identify problem loans and loan losses
- An institution's highest risk is generally within the loan portfolio and a large focus is placed on this area
- Complete an overall assessment of asset quality taking into consideration loans, other real estate, securities portfolio, and other balance sheet accounts and banking activity





# Division of Banking

## Examination Process

### 3. Operations

- Balance all assets, liabilities, and capital
- Verify income and expenses
- Check for extraordinary items
- Determine liquidity levels
- Determine how sensitive a bank is to interest rates

This analysis and information supports the lead examiner's job of determining the overall condition of the bank.



# Division of Banking

## Examination Process

Additionally, the OSBC conducts two concurrent examinations for:

- Compliance with the Bank Secrecy Act/USA PATRIOT Act
- The Information Technology risks and systems of the bank





# Division of Banking

## Examination Process

### CAMELS

C – Capital

A – Assets

M – Management

E – Earnings

L – Liquidity

S – Sensitivity to Market Risk

CAMELS – Banks are rated on a scale of 1 to 5, with a 1 rating as the best and a 5 rating as the worst. Each component is rated and an overall composite rating is assigned.

For example, a bank could be rated 1-2-2-2-2-1/2.

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# Division of Banking

- Problem institutions are considered to be those rated 3, 4, or 5 and possess unsafe or unsound practices
- Enforcement Actions
  - Board Resolution
  - Memorandum of Understanding
  - Cease and Desist Order (formal)

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# Division of Banking

## Additional duties:

- Problem bank monitoring – *extensive follow up and monitoring required*
- Board meetings - *prepare for and conduct meetings for management and directorate*
- Annual off-site reviews – *provides an update on the bank's condition and progress in addressing examination recommendations*
- SCOR reports – *uses call report data to statistically identify the probability of downgrades in the CAMELS ratings*
- Visitations on problem banks – *typically six months following the examination*
- Quarterly monitoring of compliance with various statutes
- Correspondence and communication with various federal banking agencies and banking trade organizations
- FinCEN – *Financial Crimes Enforcement Network*
  - Access
  - Annual and Quarterly Reporting

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# Division of Banking

The division is accredited by the  
Conference of State Bank Supervisors.  
We are subject to:

- Annual Reviews
- Annual Profile Survey; 7 sections spread consecutively throughout the year
- Re-accreditation every 5 years

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## Division of Banking Application Process

- Bank Branch – 2
- Trust Service Office - 2
- Change of Control - 7
- Charter Conversion - 1
- Contracting Trustee - 2
- Merger / Purchase and Assumption - 10
- Name Change - 4
- Office Relocation – 1

(applications processed for 2010)

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## Division of Banking Money Transmitting

Includes (but is not limited to) transferring funds on behalf of the public by any and all means including, but not limited to, transfers within this country or to locations abroad by: Wire; Check; Draft; Electronic Means; or Facsimile.

The license of money transmitter companies is renewed on an annual basis.

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## Kansas State Chartered Banks – Ratings History

	Not Rated	Rated 1	Rated 2	Rated 3	Rated 4	Rated 5	Summary
12/31/10	1	72	114	34	12	6	239 / 52
12/31/09	4	85	111	30	13	4	247 / 47
12/31/08	0	104	112	20	10	1	247 / 31
12/31/07	2	118	122	8	2	1	253 / 11
12/31/06	1	137	110	6	1	0	255 / 7
12/31/05	2	138	113	7	1	0	261 / 8
12/31/04	0	126	119	15	1	0	261 / 16
12/31/03	2	121	109	26	5	0	263 / 31
12/31/02	3	137	106	11	5	0	262 / 16
12/31/01	2	142	111	12	2	0	269 / 14
12/31/00	2	145	111	7	4	0	269 / 11

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Office of the State Bank Commissioner

## Division of Consumer and Mortgage Lending

CML



# HISTORY OF CML DIVISION

- The Office of the Consumer Credit Commissioner was abolished July 1<sup>st</sup>, 1999 and became the Consumer and Mortgage Lending Division, one of the two divisions within the Office of the State Bank Commissioner.



## CML Enforcement

The Consumer and Mortgage Lending Division supervises and enforces:

- **Uniform Consumer Credit Code (UCCC)**  
K.S.A. 16a-1-101 to 16a-9-102
- **Kansas Mortgage Business Act (KMBA)**  
K.S.A. 9-2201 to 9-2220
- **Credit Services Organization Act**  
K.S.A. 2004 Supp. 50-1116 to 50-1135
- **Fair Credit Reporting Act**  
K.S.A. 50-701 to 50-720
- **Federal Regulation Z**
- **Federal Regulation X (RESPA)**
- **Federal Regulation B (ECOA)**
- **Federal Regulation CFR Part 232 (DoD)**
- **SAFE Act**
- **CFPB Regulations**





# CML Supervision

- Mortgage Bankers
- Mortgage Brokers
- Mortgage Servicers
- Supervised Lenders/Finance Companies
- Consumer Credit Grantors and Servicers
- Payday Lenders
- Title Lenders
- Credit Services Organizations



# CML Supervision

- The Consumer and Mortgage Lending Division licenses and regulates lenders, servicers, and brokers in virtually every state and outside the United States. Licensed companies hold approx. \$269 billion in assets.
- As of June 30, 2010, the Consumer and Mortgage Lending Division had 7,023 entities under its supervision.





# CML Examinations

- CML utilizes centralized scheduling for exam planning and efficiency, maximizing examination staff resources.
- On-site exams are conducted both in-state and out-of-state. Off-site exams are used where feasible and appropriate.
- Many CML exams are “paperless”. Exam bones, docs, and exhibits are scanned on-site and stored electronically.



# CML Examinations

- Examinations follow familiar format:
- Pre exam review – scope
  - Determine trade lines, types of loans
  - Select sample from loan printouts
  - Review past violations, complaints, actions
  - Review pre-exam questionnaires
  - Familiarize with record systems



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# CML Examinations

- On-site loan review and policies/procedures

Loan structure, terms & conditions

Finance charges & additional charges, fees

Borrower repayment ability

Payments application, servicing activities,  
collection activities

Appraisal/Collateral values – fraud issues

Illegal activities, kickbacks, deception



# CML Examinations

- Review company financial info, net worth, bonding, leases, credit and warehouse lines, servicing agreements, etc.
- Income and expense ledgers – unlicensed activity, kickbacks, etc.
- Records management / security
- Interview management, loan officers, other employees





# CML Examinations

- Few examinations are black and white, most are shades of gray! Subjective decisions require good examiner judgment. Lots of “creative” financing out there!
- Many CML examinations require extensive follow up and investigation by examiners after the on-site portion of the exam. Obtaining further information and docs from investors, appraisers, consumers, etc.



# CML Examinations

- Many of the laws under the supervision of the Consumer and Mortgage Lending Division carry potential criminal (jail) as well as civil (fine) penalties.
- CML examiners conduct and document exams with the knowledge they may have to testify in court, and are pleasantly relieved when they do not!





# CML Results

Cash Refunds and Savings to Consumers  
through FY 2010 exceeds

**\$46 million**



## Consumer Education Initiatives

Sponsorships and grants are awarded for a variety of consumer education programs statewide. Focus ranges from school age children to adults. These grants are funded through fines and settlements obtained by the Consumer and Mortgage Lending Division. To date approximately \$3 million dollars in grants have been awarded.





# Types of Education Programs

- Kansas Council on Economic Education (KCEE)
- Kansas Lifeskills Competition
- Consumer Credit Counseling Services (CCCS)
- Housing and Credit Counseling (HCCI)
- Communities in Schools – Reality University
- Money Matters – Newspapers in Education



## Consumer Awareness

Consumer and Mortgage Lending Division fines and settlements also fund a variety of consumer awareness campaigns. These have included public service announcements on radio and television, toll-free consumer helpline, newspaper ads, and movie theater advertising.



Kansas Banking Department

**1-877-387-8523**

Consumer & Mortgage Lending Division

Don't be a  
**VICTIM**  
to  
mortgage fraud

