

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 19, 2001 in Room 514-S of the Capitol.

All members were present except: Representative Vickrey - Excused

Committee staff present: Dr. Bill Wolff, Legislative Research
Bruce Kinzie, Revisor's Office
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Matthew Goddard, Heartland Community Bankers Assn.
George Barbee, Kansas Association of Financial Services
Kathy Olsen, Kansas Bankers Association
Paul Davis, Kansas Bar Association
Melissa Walker, Kansas Association of Mortgage Brokers
Kevin Glendening, Office of the State Bank Commissioner
Bruce Morgan, Banking Board Member
Franklin Nelson, State Bank Commissioner
Karen France, Kansas Association of Realtors
David Brant, Securities Commissioner

Others attending: See Attached

Chairman Cox opened the continuation of the hearing on - **HB 2254** Enacting the California credit score disclosure act.

Opponents:

Matthew Goddard, Heartland Community Bankers Association, said his organization has serious concerns and opposition regarding **HB 2254**. They have three main concerns regarding the bill. First, it would put a state law in place of a federal law, the Fair Credit Reporting Act, which they believe is working right now. The law requires that consumers who are turned down for credit be given a copy of the credit report plus other information. A second reason is that congress is looking at federal regulation. There is no reason for Kansas to take an action ahead of the Feds. The third reason is that status quo and companies in the market place are already taking care of this. A final troubling aspect of the bill is that it requires everyone involved with the loan to get a copy of the credit score. This is not necessary. If it were, the federal government would have required it long ago. He urged the committee not to take action on the bill. (**Attachment 1**)

George Barbee, representing Kansas Association of Financial Services which is made up of consumer credit lending companies, said he agreed with the previous conferee's comments. You can get a free credit report, which is more comprehensive than a credit score, if you have been declined credit. The same credit report is available to all consumers for \$8. If we already have access to credit reports, we do not need another statute to place a burden on the system. The fair thing to do is to wait and see what happens with this legislation in California, when it becomes effective in July of 2001. (**Attachment 2**)

Chairman Cox closed the hearing on **HB 2254** and opened the hearing on **HB 2465** - Prudent investor act.

Proponents:

Kathy Olsen, Kansas Bankers Association, covered testimony prepared by Daryl Craft of their Trust Division. Last session the legislature replaced an earlier version of the Uniform Prudent Investor Act and placed it in a different location, from the original Act, in the Kansas Statutes Annotated. **HB 2465** corrects a number of references to the

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old location and replaces one paragraph that was left out of the Act last session. This paragraph concerns the written directions of a grantor and clarifies the ability of the trustee to follow these written instructions. (**Attachment 3**)

Paul Davis, Kansas Bar Association, spoke in favor of **HB 2465**. It has been a cooperative effort on the part of Kansas Bar Association, Kansas Bankers Association, and the Kansas Trial Lawyers Association. He requested favorable consideration of the bill. (**Attachment 4**)

Chairman Cox closed the hearing on **HB 2465** and opened the hearing on **HB 2481 - Kansas mortgage business act; regulation of**.

Proponents:

Melissa Walker, Kansas Association of Mortgage Brokers, said that **HB 2481** is crucial to the mortgage industry. They believe that it is very important for mortgage representatives, that have dealings with the general public, to be not only licensed but also to have required continuing education. This increases professionalism throughout the industry, will get rid of the bad apples, and insures that only qualified professionals are dealings with the public. (**Attachment 5**)

Chairman Cox asked if the bill required the out-of-state brokers to have an office, i.e. a physical presence, in the state of Kansas. Melissa said it was her understanding that they would have to have a larger bond if they do not.

Kevin Glendening, Deputy Bank Commissioner, said the bill represents somewhat of a shift in the way they propose to license mortgage lenders and brokers. There are lots of amendments in the bill which can be grouped into three categories. The first issue is, due to low start-up costs, there are a large number of companies engage in the business and they cover a sizable range in ability and experience levels. The bill would authorize his agency to establish continuing education and testing requirements for individuals engaged in mortgaged brokering. The second broad category is the change to the current bonding structure for in-state companies. The change eliminates several alternatives which have been underused and difficult to enforce.

The third issue pertains to the establishment of what could be described as a laundry list of prohibited business practices, as well as additional clarification on advertising and related matters. They generally deal with possible deceptive and/or predatory types of activities. The bill also extends the existing criminal penalties to the entire act and makes the prohibited activities subject to criminal as well as administrative action. He believes **HB 2481** will enhance the protection afforded consumers. Kevin pointed out that starting on page 10, line 27 of the bill the numerical numbering of the subsets should be changed to alphabetical numbering. (**Attachment 6**)

Chairman Cox closed the hearing on **HB 2481** and opened the hearing on **HB 2482 - Powers and duties of the state banking board and bank commissioner**.

Dr. Wolf gave a summary of the bill. He stated that for the last couple of years there have been an issue coming from the Senate to the House that talked about the functions of the commissioner and the functions of the board. Last year there was a bill which was going to transfer some of the functions or responsibilities to the place that was most appropriate for each of the two entities. In the past year the board has gone back and gone over the issues and **HB 2482** is the work product of the activity. A number of things that are currently delegated the State Banking Board are now being transferred to the Commissioner. He reviewed the changes which included: changing a bank's name; reducing the capital stock of a bank; issuance of preferred stock; reducing the surplus of a bank; establishing a subsidiary and investing money in that subsidiary; approval and authorization to hold life insurance policies on officers and employees; doing away with pledged shares for qualifying directors; ability of bank to issue capital notes and debentures; and approval of branches of eligible banks. The Commissioner would have authority to grant a bank branch office, but the banking board would hear any appeals. The Commissioner has authority, in the case of a problem bank to create special deputies and to assign those persons to those banks to stay there until relieved by the Commissioner. This authority has been with the State Banking Board. The Commissioner has been given the authority to establishing emergency charters in those locations where they are needed. The result, of this change of responsibility, is that the Board will review what it believes it ought to be involved with, as it relates to decisions being made in the Banking Department, and the Bank Commissioner will be delegated those areas where they believe the

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Commissioner should have sole authority to act. All this pertains to policy decisions for the committed to decide. There are also some changes which simply clean up language. He pointed out a printer's error on line 32. The word "provided" should not be there.

Proponents:

Bruce Morgan, Banker and Banking Board Member, said there are 271 banks in the state regulated by the banking department. They last came to the committee in March 1999 regarding this matter. Since then, the Banking Board adopted a mission statement and reviewed all the laws relating to duties of the State Banking Board against the mission statement. The bill shifts a number of the duties from the Banking Board to the Bank Commissioner that are administrative in nature and do not involve policy decisions that require review by the nine member Banking Board. These are things that affect the Commissioners' job and the Banking Board believes the changes will improve the efficiency of the Office of the State Bank Commissioner and streamline the regulatory process of the State Banking Department. Administrative decisions can be made on an expatiated basis similar to what national banks, that are regulated by the office of Comptroller of Currency, now enjoy. The Banking Board compared the parallel laws and regulations that the OCC or Federal Reserve have the national banks go through. The bill strengthens the Office of State Bank Commissioner, preserves the policy and advisory role of the State Banking Board on issues of importance and is in the public's interest.

Franklin W. Nelson, State Bank Commissioner, said the Banking Board and his office followed the suggestions of the House FI and Senate FI & I Committees last year that they review the Banking Board powers and the statutes that are obsolete and outdated. Since that time, the board, with the aid of his office, has been reviewing the statutes and powers. The Banking Board members were very thorough in their review. The product contained in this bill is the cumulation of 10 to 12 months of comprehensive discussions. He complimented the nine member Banking Board for a job well done. He strongly supports **HB 2482** and requests the favorable consideration of the committee. (**Attachment 8**)

Chairman Cox closed the hearing on **HB 2482**.

Chairman Cox asked **Karen France** if she had any comments to make regarding **HB 2254**. Karen said she knew the committee had a lot to deal with before the turn around deadline and suggested that perhaps the committee would ask for an interim study on the issue of credit scores. This would give the opportunity for information to be gathered from California. Chairman Cox said he wasn't sure there would be enough time to gather much data since the law didn't take effect until July. Karen suggested perhaps some sort of monitoring function be done if there is an interim committee on another matter.

Chairman Cox asked Commissioner Brant to tell the committee what was on his mind regarding **HB 2243 - Regulating securities, powers of the commissioner**.

David Brant, Securities Commissioner, said he was prepared to strip the provisions in **HB 2243** that deal with variable annuities and variable products, if the committee would consider that favorably. He submitted a handout listing amendments which would accomplish this. The handout also listed two minor technical amendments and the adding of language to provide a five year sunset on the propose investor education fund. The five year sunset provision was suggested by a legislator. (**Attachment 9**) He also submitted a copy of an article in the Wall Street Journal regarding switching of variable annuities. (**Attachment 10**)

Chairman Cox said the committee would now work some bills.

HB 2243

Representative Tomlinson moved to amend **HB 2243** along the outline submitted by Commissioner Brant.
Representative Dreher seconded the motion. The motion carried.

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Representative Tomlinson moved to recommend **HB 2243** as amended marked favorable for passage. Representative Dreher seconded the motion.

Representative Grant made a substitute motion to table **HB 2243**. Representative Boston seconded the motion. The motion carried on a hand count of eight yeas.

HB 2254

Representative Burroughs made a motion to study the results of the California legislation in an interim committee. Either one set up for the specific purpose or attached to another interim committee.

Representative Tomlinson said everything could be accomplished without putting it in the form of a motion. He suggested the committee not take any action.

Representative Burroughs withdrew his motion.

HB 2465

Representative Tomlinson made a motion that the committee recommend **HB 2465** marked favorable for passage. Representative Sharp seconded the motion. The motion carried.

HB 2481

Bruce Kinzie stated that besides the amendment to renumber subsets starting on page 10, the word “and” needed to be deleted on page 8, line16.

Representative Burroughs made a motion to amend **HB 2481** as stated by Bruce. Representative McCreary seconded. The motion carried.

Representative Grant made a motion that **HB 2481** be passed favorably as amended. Representative Dreher seconded the motion. The motion carried.

HB 2482

Representative Minor made a motion to pass **HB 2482** marked favorable. Representative Sharp seconded the motion. The motion carried.

HB 2193 - Payday loans, limitations on number of loans to same borrowers

Representative Burroughs made a motion to remove all amendments made by the House Committee of the Whole and restore the bill to its original state. Representative Gatewood seconded the motion. The motion carried.

Representative Burroughs made a motion to pass **HB 2193** out favorable for passage as further amended. Representative Tomlinson seconded the motion. The motion carried.

The meeting adjourned at 4:40 p.m.

The date of the next meeting will be determined later.

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