

Approved: May 2, 2012

(Date)

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairperson Forrest Knox at 8:02 AM on Tuesday, May 1, 2012, in Room 152-S of the Capitol.

All members were present except Representatives Shultz and Henderson, both of whom were excused.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Gary Deeter, Committee Secretary

Conferees appearing before the Committee:

None

Others in attendance:

See attached list.

The Chair opened the hearing on **HB 2793 – Kansas credit services organization; exemptions for attorneys and such attorneys' law firm.**

The Chair announced that all testimony from yesterday's informational hearing (April 30, 2012) will be included as a part of today's hearing.

After some discussion about completing work on the bill the next day, it was decided to question conferees further.

Chris Joseph, responding to a question, gave further details regarding the 15 listed legal actions that would be required or prohibited if law firms were bound by the stipulations of the credit counseling act of 2004 (Attachment 1). He said that when an attorney takes certain actions, such as calling a credit-card company on behalf of a client, such action triggers the requirements of the act and places strictures on the entire law firm. He noted that the language of the 2004 act defines a person to include, among other things, a corporation, partnership, or association. He also noted that case law and the Kansas Supreme Court regulate the scope of practice of

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CONTINUATION SHEET

Minutes of the HOUSE FINANCIAL INSTITUTIONS Committee at 8:00 AM on Tuesday, May 1, in 152-S of the Capitol.

attorneys licensed in Kansas; the Office of the State Bank Commissioner is not authorized to regulate attorney practice.

Mr. Joseph, in clarifying the narrow focus of the bill, said that two questions are at issue:

- Is Persels' practice within the scope of the practice of law? and
- If an attorney is exempt from the 2004 credit-counseling act, does that exemption include the law firm under which an attorney practices?

He stated that the bill addresses only with the second question.

The Chairman closed the hearing on HB 2793.

The minutes for the April 30 meeting were approved as printed. (Motion by Representative Grant; seconded by Representative Fawcett)

The Committee agreed to work the bill.

A motion was made, seconded, and passed unanimously to amend the bill by changing the word "person" in lines 9-11 to "individual." (Motion by Representative Gregory; seconded by Representative Grant)

Representative Grant made a motion, seconded by Representative Fawcett, to recommend the bill as favorable for passage as amended. The motion passed.

Two members noted for the record that passage of HB 2793 addresses a narrow question: exempting an individual licensed to practice law in Kansas includes an exemption for the law firm, partnership, or corporation he/she is associated with; however, passage of the bill does not address the larger question of whether a law firm whose practice is exclusively a credit-counseling service is exempt from the credit-counseling act of 2004. It was further noted that registration, licensing or other regulation may be appropriate for law firms. However, it would be different from what was passed in the 2004 legislation."

The meeting was adjourned at 8:31 a.m. No further meeting was scheduled.

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