

February 16, 2011

The Honorable Tim Owens, Chairperson
Senate Committee on Judiciary
Statehouse, Room 559-S
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Fiscal Note for SB 106 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 106 is respectfully submitted to your committee.

SB 106 would amend the Kansas Consumer Protection Act, to be applied retroactively. The bill does not establish a timeframe for this retroactive application. The bill would specifically state the legislative intent that when the courts interrupt the Act they would be guided by the policies of the Federal Trade Commission and interpretations given by the Federal Trade Commission and the federal courts for the corresponding federal law. In addition, the Act would not apply to actions or transactions otherwise permitted or regulated by the Federal Trade Commission or any other state or federal regulatory body or statutory officer.

Under current law, the Kansas Consumer Protection Act allows a customer who suffers a loss to receive either damages or a civil penalty, whichever is greater. The bill would allow a consumer to recover both damages and a civil penalty. SB 106 would define a consumer who “suffers a loss” as a person who can prove that a violation of the Act caused the person to enter into the transaction that resulted in damages. An award of damages could be awarded with proof a financial loss was suffered. If there is a financial loss, then the damages could not exceed the difference between the amount paid and the actual market value. The bill also removes the definitions of “agricultural purpose” and “family partnership” under the Act and removes husbands and wives, sole proprietor, family partnership from the definition of “consumer.” The bill would take effect upon publication in the *Kansas Register*.

Estimated State Fiscal Effect				
	FY 2011 SGF	FY 2011 All Funds	FY 2012 SGF	FY 2012 All Funds
Revenue	--	--	(\$100,000)	(\$1,800,000)
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

The Honorable Tim Owens, Chairperson

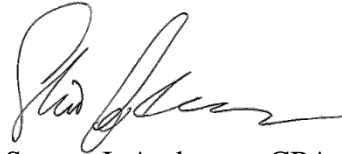
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According to the Office of Judicial Administration, because the provisions of SB 106 would make the Kansas Consumer Protection Act not applicable to certain cases, there could be a decrease in case filings under this Act, decreasing the amount of docket fees collected by the district courts. This reduction is estimated to be negligible. However, parties could raise additional issues relating to the applicability of federal law within existing cases. It is not possible to predict the number of court cases that passage of SB 106 would affect. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources.

The Attorney General's Office states that the passage of SB 106 would narrow the number of consumers protected and scope of enforcement by the Office. The agency recovered \$4,959,880 in FY 2010 under the Consumer Protection Act. Of that amount, \$212,864 was deposited in the State General Fund, \$1,759,660 was deposited in the agency's Court Cost Fund, and \$2,987,356 was given back to the consumers. If the bill is enacted, the agency estimates it would recover approximately half that amount, \$2.4 million, in FY 2012. Therefore, the State General Fund would receive \$100,000 less, the Court Cost Fund would receive \$800,000 less, and the consumers would receive \$1.5 million less.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson".

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Megan Pinegar, Attorney General's Office
Mary Rinehart, Judiciary