

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on January 31, 2001 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
JoAnn Buntin, Committee Secretary

Conferees appearing before the committee:

Pam Scott, Kansas Funeral Directors Association
Senator Janis Lee
Dr. Ernest Pogge, AARP
Steve Rarrick, Deputy Attorney General, Consumer Protection Division
Chuck Stones, Kansas Bankers Association
Doug Smith, Direct Marketing Association
Caroline Williams, Consumer Service, Western Resources
Linda DeCoursey, Director of Government Affairs, Kansas Insurance Department

Others attending: See attached list.

Introduction of bills

Senator Feleciano made a motion that the Committee introduce legislation relating to credit scoring, seconded by Senator Barnett. The motion carried.

Pam Scott, Kansas Funeral Directors Association, requested introduction of a bill relating to insurance agents selling life insurance of annuity products used to fund a prearranged funeral program. Senator Brungardt made a motion that the Committee introduce the proposed legislation, seconded by Senator Teichman. The motion carried.

Hearing on SB 58 - Consumer protection; prohibiting obtaining or submitting check without written consent

Senator Janis Lee testified in support of **SB 58** which would protect consumer rights by prohibiting a supplier of goods and services as defined under the Kansas Consumer Protection Act from obtaining or automatically withdrawing money from a person's checking, savings, or similar account, without express written authorization as stipulated in the bill. Senator Lee noted that she first became concerned with the fact that no consumer signature is required for a bank's withdrawal of funds when a situation in her family brought this to her attention. She also pointed out that she would work with opponents of the bill to determine if there is a middle ground on this issue. (Attachment 1)

Dr. Ernest Pogge, AARP, spoke in support of the bill and noted that telemarketing fraud victimizes people of all ages by using verbal authorization to access the consumer's account before the consumer has the opportunity to adequately respond. He also felt that written authorization would amend this situation as noted in his written testimony. (Attachment 2)

Steve Rarrick, Deputy Attorney General, Consumer Protection Division, provided testimony to the Committee in support of **SB 58**. Mr. Rarrick noted that his office has received numerous complaints from consumers who have had money taken from their bank accounts without their knowledge or they expressed concern because they gave their bank account number to a telemarker. (Attachment 3) During Committee discussion Mr. Rarrick stated that he would not object to utilities regulated by KCC to properly withdraw funds, but felt that more work needed to be done to strengthen an amendment allowing telemarkers such access.

CONTINUATION SHEET

Chuck Stones, Kansas Bankers Association, a neutral conferee, provided information to the Committee relating to telemarketing problems, bank liability, avoiding losses by the consumer, educating bank customers on fraud, and new Federal Trade Commission rules on prohibiting deceptive telemarketing practices. (Attachment 4) During Committee discussion Mr. Stones noted that it is the responsibility of a bank to pay a draft if it is properly payable, and that the consumer has the responsibility of checking their bank account statement and not giving out their bank account number to unauthorized persons.

Doug Smith, Direct Marketing Association, spoke in opposition to the bill, and urged the Committee to keep Kansas consistent with federal law on the issue of electronic payment. He requested the Committee amend **SB 58** so that it is consistent with the Telemarketing Sales Rule, which is a part of the Telemarketing and Consumer Fraud and Abuse Prevention Act, as noted in his written testimony. (Attachment 5)

Caroline Williams, Consumer Service, Western Resources, also spoke in opposition to **SB 58** because she felt by requiring written authorization instead of oral authorization, this bill would effectively eliminate the convenience of service to customers in paying their utility bills which could result in the disconnection of service due to the time requirement of submitting written authorization. Ms. Williams offered an amendment that would exempt public utilities regulated by the Kansas Corporation Commission from the written authorization as shown in a balloon of the bill. (Attachment 6)

The Chair noted that Senator Lee is willing to work with opponents of the bill to draft an amendment to the bill that would be agreed to by all parties. Senator Lee agreed to bring such language back to the Committee for their consideration.

Hearing on SB 101 - Health Insurance; HIPAA technical changes

Linda DeCoursey, Director of Government Affairs, Kansas Insurance Department, testified in support of **SB 101** which is technical in nature and brings Kansas group accident and sickness insurance law into compliance with the Health Insurance Portability and Accountability Act of 1996 as outlined in her written testimony. (Attachment 7)

There were no opponents to **SB 101**.

Adjournment

The meeting was adjourned at 10:20 a.m. The next meeting of the Committee is scheduled for February 1, 2001.