

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 1, 2005 in Room 234-N of the Capitol.

All members were present except:

Jim Barone- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Ken Wilke, Office of Revisor of Statutes

Sandy Yingling, Committee Secretary

Conferees appearing before the committee:

Doug Wareham, KBA

Rep. Tom Thull, Branch Pres. Central National Bank, Newton

Bruce Morgan, Valley State Bank, Roland Park

Bill Henry, Credit Union Association

Matt Goddard, Heartland Community Bankers

Thad Geiger, Community Bankers Association

Others attending:

See attached list.

Madam Chair opened the meeting with bill introductions.

Bud Burke, National Home Service Contract Association, introduced first a bill that has a series of consumer protection issues. It also makes it clear that it is not insurance. The second bill is in regard to Payday loans requesting non complicated fee schedules by going to a standard rate. The third bill is in regard to consumer protection of military personnel.

Madam Chair asked for questions. Ken Wilke asked if Mr. Burke had proposed language for the three bills and Mr. Burke responded with a yes.

Senator Brungardt moved to introduce all three bills, Senator Barnett seconded. The motion was carried.

Ron Hein's bill request is in regard to health insurance which would prohibit waiving co-pays and deductibles. (Attachment 1)

Madam Chair asked for questions. Senator Schmidt stated she understood that there were already laws that prohibited waiving co-pay and questioned Senator Barnett. Senator Barnett answered in his practice that everyone was treated the same. Ron Hein stated that it was not against the law in Kansas to waive co-pay. Senator Schmidt asked, if there was perhaps a federal law in place? Mr. Hein answered, not to his knowledge. Madam Chair asked for introduction, Senator Barnett moved to introduce, Senator Brownlee seconded. All in favor unanimous.

Kevin Robertson, CAE, Kansas Dental Association, introduced two bill. (Attachment 2) The first bill would require that insurance company allow the insurer to provide their benefits directly to a provider. Second, this bill is tailored for dental insurance only and would require that a dental insurance company pay it's insured an equal amount of pay whether they go inside or outside.

Madam Chair asked for questions. There were none.

Senator Steineger made a motion to introduce, Senator Brungardt seconded. The motion was carried.

The last bill introduction was introduced by Chair Teichman regarding a hospital in her area attempting to sell ground and in doing so they not only had to have a bid, they also had to go through the process of an auction. This bill would allow them to do one or the other.

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Senator Wysong moved to introduce, Senator Wilson seconded. The motion was carried.

Chair Teichman asked for any other bill introductions and announced the deadline was soon approaching.

Madam Chair opened the hearing for **SB 57**.

SB 57 - Consumer protection; exemption for occasional sale of certain repossessed collateral.

Melissa Calderwood, Kansas Legislative Research Department, presented an overview of **SB 57**. (Attachment 3) After Melissa's presentation, Chair Teichman asked if there were any questions and there were none.

Doug Wareham, KBA, was the first to testifying in support of **SB 57**. (Attachment 4)

Madam Chair announced that Rep. Thull would be here and as soon as he arrived the committee would stop testimony to hear from Rep Thull to accommodate his schedule.

Madam Chair asked for questions. Senator Barnett asked how many vehicles across the state were repossessed by the banks who loaned the purchase money? Also, were lease vehicles a part of this bill? Mr. Wareham did not have a number of repossessions, Senator Teichman offered from personal experience that it was estimated around 2 to 3 a year. Mr. Wareham answered that leased vehicles are not included. Senator Wilson stated this law must have been around a long time and asked if this was the first time the Bankers Association brought this to the attention to the legislature and why now? Mr. Wareham said there have been complaints filed with the Kansas Consumer Protection Department in the Attorney General's office regarding repossessed collateral and he believes this is the impetus on why banks are now experiencing problems with repossessed collateral and selling that repossessed collateral. Ken Wilke questioned if other repossessed collateral was part of this bill and Mr. Wareham answered that yes, **SB 57** was to apply to all repossessed collateral. Chair Teichman asked for other questions. There were none.

Bruce Morgan, CEO of Valley State Bank in Roland Park next testified in favor of **SB 57**. (Attachment 5)

Madam Chair interrupted Mr. Morgan when Rep. Tom Thull of the 72nd District arrived to testify. Mr. Thull is also the branch president of Central National Bank in Newton. Rep. Thull testified in favor of **SB 57**. Madam Chair asked for questions, there were none, she thanked Rep. Thull for appearing.

Bruce Morgan recounted an experience his bank had with litigation when they sold a repossessed vehicle. Although they won in summary judgment, the cost to the bank for its defense was \$50,000. Further, Mr. Morgan explained that banks were not in the business to repossess cars, it simply was not good for business and **SB 57** would reduce the burden of litigation.

Madam Chair acknowledged Senator Barnett who questioned the proposed language in **SB 57** on page 2, line 18 if the word "occasional" should be considered in that language? Mr. Morgan does not because in 15 years of banking career in the 80's about 25 banks were lost in the state of Kansas and in trying to clean up a bank with problem assets Mr. Morgan stated he would have more than one vehicle. He said if we were crystal clear that the purpose of the sale of repossessed collateral is to satisfy the debt, the word "occasional" would limit it. Senator Wilson questioned in regard to some of the statements the AG made and in a lot of these in 2003 he knows some of the car dealers, dealing with deceptive advertising, his question: are the bankers doing some kind of deceptive advertising? Mr. Morgan stated he does not know of one bank that is engaged in that type of practice. Mr. Morgan stated that a bank is embarrassed to take back collateral because it reflects a bad loan was made. Therefore, advertisements would bring attention to that bad loan and the bank does not want that kind of attention. Senator Wilson stated that some of the other statements were dealing with unconscionable business practices and asked if Mr. Morgan was engaged in unconscionable business practices? Mr. Morgan answered that he was not. Senator Wilson reflected that his understanding was that Mr. Morgan was being put in a category as a retail auto dealer and litigation was being brought against him for anything found in a retail auto dealer. Mr. Morgan confirmed Senator Wilson's understanding. Senator Wilson questioned about what did Mr. Morgan do wrong if he was not engaged in an unconscionable act and not involved in deceptive advertising practice, what brought this lawsuit on? Mr. Morgan stated the people involved had

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buyers' remorse so they engaged an attorney who advised they sue the Kansas bank. Senator Wilson asked what specifically did they say the bank did wrong in that transaction? Mr. Morgan stated, everything in the act.

Madam Chair introduced Bill Henry representing Credit Unions, who testified in favor **SB 57**. (Attachment 6) Questions would be taken at the end.

Madam Chair next introduced Matt Goddard, Heartland Community Bank, who testified in favor of **SB 57**. (Attachment 7) Madam Chair stated questions would be taken at the end.

Madam Chair introduced Thad Geiger, Community Banker's Association, who testified in favor of **SB 57**. (Attachment 8)

Madam Chair acknowledged Senator Brungardt who questioned is their assurance that the customer who is buying the repossessed vehicle understands that the vehicle is being sold as is and if they want it inspected that it is their burden. Mr. Morgan answered that on the bill of sale it is stated as is. Senator Brungardt asked, if an individual is confused by some implied warranty or some notion that they are protected? Mr. Morgan stated he would not sell an unsafe vehicle. It will pass state inspection. Chair Teichman asked if the prospective buyer is allowed to inspect the vehicle? Mr. Morgan stated they are free to take it anywhere of their choosing for an inspection.

Senator Wilson asked if **SB 57** was passed would in also include a bank owned vehicles? Mr. Morgan stated that in its most extreme, yes it could be stretched to include a bank owned vehicle sales. He pointed out that there is another provision in Article 9 related to the sale of a bank asset.

Madam Chair asked for any other questions. There were none.

The meeting was adjourned at 10:25 a.m.