

Approved: March 20, 2000
Date

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on March 13, 2000 in Room 527-S of the Capitol.

All members were present except: Representative Boston - Excused
Representative Dreher - Excused
Representative Flora - Excused
Representative Grant - Excused
Representative Humerickhouse - Excused

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

Conferees appearing before the committee: Senator Tim Emert
Senator David Corbin
Nancy Goodall, Kansas Bar Association

Others attending: See Attached

Chairman Cox opened the hearing on **SB 503 - Enacting the Kansas uniform prudent investor act.**

Proponents

Senator Emert, testified in support of **SB 503**. The bill basically reverses a common law practice which restricts the investment powers of fiduciaries. We're dealing with how conservators, trustees, executors, and all people who operate in fiduciary relationships, are able to invest assets. The common law practice has been that you do the most conservative thing possible. Consequently, many times the money ends up in CD's. Most trust documents will determine how assets are invested; this bill applies only when there is an absence of guidelines. If there are no other guidelines, as to how the fiduciary is to make investments, this is the fallback or default. The bill says that the fiduciary will be prudent when making investments. When determining whether that fiduciary acted in a prudent manner, the entire portfolio will be taken into consideration. Originally, there was a lot of opposition, but amendments have resolved differences. He understands there will be a couple of additional amendments today and he has no objection to them. (**Attachment 1**)

Senator Corbin, testified in support of **SB 503**. He handed out written testimony from his wife, Betty Corbin. (**Attachment 2**) He said Mrs. Corbin was the one who instigated this bill and appeared when it was heard in the Senate. It came about because she was chairman of the Butler County Community College Endowment Association for a number of years. They embarked on a different way to invest money as they had their money in a bank invested in CD's and short term instruments. They had \$400,000 to \$500,000 but it really wasn't growing any, as all the interest earned was put back into scholarships. The principal stayed stagnant unless someone gave a new grant. The college decided it wanted to invest in other instruments. They looked at K.S.A. 17-5004 and had difficulty as laymen, even though there were some attorneys on the board, understanding exactly what their responsibilities were. They happened upon a bank representative who suggested they look at the Uniform Code that's nationwide. They did so and it became much clearer to them what their responsibilities were. The \$500,000 was invested in a manner where it grew to \$5,000,000. **SB 503** would reflect what's in the Uniform code making the responsibilities of fiduciary much clearer.

Nancy Goodall, Kansas Bar Association, said she was heavily involved in the drafting of the current Prudent Investor Rule found in K.S.A. 17-5004. They tried to present a guideline to Kansas investors. Since then, the uniform bill, which is a little different than what we have, has come into play. Kansas law has a provision for the right to hold property if the grantor agrees in writing. She thinks that is important to protect Kansas farms. Also, Kansas conservatorship laws dictate that a Kansas conservator should invest a little more conservatively than a general fiduciary. These differences have been incorporated into **SB 503**. She did

present additional amendments which came about after working with the Kansas Trail Lawyers Association and the Kansas Bankers Association. The three amendments requested were 1) on page 1, line 32, Sec. 2 (c) to change the word “shall” to “should”, and 2) on page 2, line 1, Sec. 2, (c)(6) add the words “who are eligible to receive discretionary payments of trust income or principal assets”, and 3) on page 3, line 9, Sec. 9(a)(2) to add “errors and omissions coverage.” (**Attachment 3**)

Kathy Olsen, Kansas Bankers Association, written testimony only from Trust Division. (**Attachment 4**)

Chairman Cox closed the hearing on **SB 503** and opened the hearing on **SB 445 - Uniform consumer credit code; concerning appraised value and appraisals.**

Proponent:

George Barbee, Kansas Association of Financial Services, said that **SB 445** had some cleanup items from some bills passed last year. The bill clarifies that only one appraisal is necessary. The second change appears on page 9, lines 1 through 5. It has to do with the right of rescission. Currently, in the federal regulations a borrower has 3 days to make up their mind if they really want to go ahead with the loan or not. In the Kansas law last year, 5 days was inserted. They are now asking for it be changed to 3 days to be consistent with federal law. In the federal law, it’s known as “Reg Z.” Some language was taken out of the bill and then reinstated, thus it looks a little more complicated than it really is. He asked for the committee’s adoption of the bill. (**Attachment 5**)

Chairman Cox closed the hearing on **SB 445** and said the committee would work **SB 503**.

Bruce Kinzie said there was a little technical amendment which was needed on **SB 503**. On page one, lines 20 and 21 the word “trustee” was left in and needs to be changed to “fiduciary.”

Representative Empson made a motion to adopt the cleanup item presented by Bruce Kinzie as well as the amendments presented by Nancy Goodall. Representative Sharp seconded the motion. The motion carried.

Representative Empson made a motion to pass **SB 503** out favorably as amended. Representative Sharp seconded the motion. The motion carried.

Chairman Cox said the committee would work **SB 445**.

Bruce Kinzie said that on pages 8 and 9, when they reinserted the paragraph back in, they forgot to change the internal references.

Representative Minor made a motion to adopt the technical amendment mentioned by Bruce Kinzie. Representative Tomlinson seconded the motion. The motion carried.

Representative Minor made a motion to pass **SB 445** out favorably as amended. Representative Tomlinson seconded the motion. The motion carried.

Chairman Cox asked for a motion on the minutes.

Representative Empson made a motion to approve the March 8, 2000 committee minutes as presented. Representative Merrick seconded the motion. The motion carried.

The meeting adjourned at 4:10 p.m. The date of the next meeting will be announced later.

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTION, Room 527-S Statehouse, at 3:30 p.m. on March 13, 2000.

II