

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 21, 2000 in Room 527-S of the Capitol.

All members were present:

Committee staff present:

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

Conferees appearing before the committee:

Steve Rarrick, Office of the Attorney General
John Pinegar, Direct Marketing Association

Others attending: See attached

Chairman Cox said the committee would work **HB 2825 - Consumer Protection, prohibiting obtaining or submitting check without consent.**

Steve Rarrick, Office of the Attorney General, handed out an amendment to **HB 2825. (Attachment 1)** He said there had been previous discussions on what the words negotiable "paper" mean. His office thinks it ought to be changed to negotiable "instrument or payment order." K.S.A. 84-4a-103 talks about payment orders that can be submitted to another bank electronically, orally, or in writing. Also, line 14 of the amendment removes the word "bankcard" and inserts the words "share or similar" account. He thinks this language will properly address the issue. He said he'd had discussions with Bruce Kinzie and the Kansas Bankers Association, and it was thought that an amendment was not necessary for "expressed written authorization." In fact, it was thought that if language was drafted, it would be more limiting than it is right now.

Chairman Cox asked Doug Lawrence if he wanted to address the committee. Mr. Lawrence deferred to **John Pinegar**, the Direct Marketing Association. He handed out a suggested amendment. **(Attachment 2)** He said his position remains the same that it has over the past several years and that is for the Kansas law to reflect the federal law. The three criteria the federal law requires to get a verifiable authorization are: expressed written authorization, independent third party verification, or a tape recording. Under the federal act, this information is available to the financial institutions prior to the withdrawal being made, if the financial institution requests the information. His suggested amendment deletes the words "written authorization" and inserts the words "verifiable authorization in compliance with 16 CFR 310.3." He said his organization just wants to follow the federal law, which they and all legitimate telemarketers are now doing.

Chairman Cox asked what the committee's pleasure was.

Representative Burroughs made a motion to pass out the bill favorably with the amendments presented by Steve Rarrick.

Representative Tomlinson said he would be happy to second it but it would be better to vote on the amendments first. Chairman Cox agreed.

Representative Burroughs retracted his original motion and made a motion to adopt Steve Rarrick's amendment to **HB 2825.** Representative Tomlinson seconded the motion. The motion carried.

Representative Burroughs made a motion to pass out **HB 2825** favorably as amended. Representative Flora seconded the motion.

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTION, Room 527-S Statehouse, at 3:30 p.m. on February 21, 2000.

Representative Humerickhouse said he is really concerned about what the bill would do to people that are doing business in the state legitimately and with the number of hoops we are expecting them to jump through, in order to try to catch the bad guy, who probably won't ever get caught. He thinks it's adverse to the business climate in the state. He said he would be voting against the motion.

Representative Mayans said he agrees with Representative Humerickhouse. He does not think it is good public policy and thinks it would be interfering with businesses trying to do their job. He said he will be voting against the motion.

Representative Grant said he agreed with his two colleagues. To catch one bad guy, we go out and try to blanket everybody. What he'd like to see, if the motion goes down, is for the AG's office, the banking people, and the people that this affects to get together and work out a compromise of some kind. Then they could come back in here and everyone would be happy. He apologized to Representative Ray for having to vote against the bill but said he thinks we're putting too much of a burden on the people out there that are going to have to cope with it.

Chairman Cox called for a voice vote and was in doubt of the outcome so he asked for a show of hands vote. There was a tie vote with 8 yes and 8 no votes. The motion failed.

Representative Sharp made a motion to approve the February 14 minutes as written. Representative Grant seconded the motion. The motion carried.

The meeting adjourned at 3:56 p.m.

The date of the next meeting will be announced at a later date.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.