

January 11, 1980

LB 306

SENATOR CHAMBERS: Okay, now if the determination is made that it is a joint tenancy with right of survivorship, are you saying that the bank then cannot tell this individual that we will not grant the loan unless you get the signature of the other tenant?

SENATOR LANDIS: If the individual is not credit worthy, they may decline the loan. If the individual is credit worthy they may not then say, we will not grant the loan without the signature of the spouse because what that is is compelling the signature of the spouse.

SENATOR CHAMBERS: Now suppose the property is to be the security, can the bank then insist that everybody who has an interest in the property sign the encumbrance against the property?

SENATOR LANDIS: They may not say, they may not ask for, demand or compel the signature of a cosigner. It is possible for the applicant to volunteer such a signature.

SENATOR CHAMBERS: But, Senator Landis, isn't a cosigner asked for when there is not adequate security and you then want the cosigner to be the primary obligee on the note?

SENATOR LANDIS: Well there is a variety of situations there. It is possible that an individual would be credit worthy without that particular piece of property being involved.

SENATOR CHAMBERS: But if that property is to be the subject on which the loan is based, must not everybody with an interest, the bank can ask for a signature from everybody with an interest in that property just as a sound financial practice?

SENATOR LANDIS: The turning question is whether or not the individual is credit worthy. Now if I understand the question you are saying to me, if this is the final determining factor of credit worthiness...

SENATOR CHAMBERS: The property, yes.

SENATOR LANDIS: Yes, and that is a hypothetical because it may or may not be the case if that is what credit worthy terms on. In fact, the regulation does not specifically talk about where ownership of that property then equals credit worthiness. It talks in terms of where the individual is credit worthy, the signature may not be requested or compelled.

SENATOR CHAMBERS: Okay, thank you because my time. Mr.