

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on February 20, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Tim Owens - Excused
Representative Dale Swenson - Excused
Representative Dan Williams - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Jeff Bottenberg, Kansas Sheriff's Association
Oscar Thomasson, Sedgwick County Sheriff's Department
Kathy Porter, Office of Judicial Administration
Representative Larry Campbell
Don Seifert, City of Olathe
Kathy Olsen, Kansas Bankers Association
Matthew Goddard, Heartland Community Bankers Association
Chris Wilson, Kansas Building Industry
Wess Galyon, Wichita Builders Association
Dave Holtwick, Greater Kansas City Homebuilders
Mike Perry, Topeka Homebuilders
Gary White, Kansas Trial Lawyers Association

The hearing on **HB 2293 - Sheriff's fee for service of process**, was opened.

Jeff Bottenberg, Kansas Sheriff's Association, requested the proposed bill to allow sheriff's officers to charge a fee when process serving in a civil case. They currently can charge a fee to state agencies and out of state service but not anyone else. The bill would allow for a \$10 charge if a sheriff's office is used. Private process servers charge between \$25-\$45 (Attachment 1)

He proposed two amendments. The first would delete Section 3 from the bill, which would remove the prohibition against charging for the service of criminal warrants. The second would amend Section 4, (c) by clarifying that the \$10 fee is to be paid up front to the courts and remitted to the county general fund (Attachment 2).

Oscar Thomasson, Sedgwick County Sheriff's Department, estimated that the Sedgwick County Sheriff's Department served 130,000 last year at a cost of \$509,000 to taxpayers. He provided a chart showing that the sheriff's departments in the surrounding states charge a fee, with the least being \$10.00 plus .36 per mile and the most expensive \$200.00 (Attachment 3).

CONTINUATION SHEET

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Written testimony in support of the bill was provided the Kansas Association of Counties (Attachment 4).

Kathy Porter, Office of Judicial Administration, was concerned with the clerks having more work by doing additional indexing and accounting. She suggested that the committee just increase a docket fee so it doesn't impose more work on the clerks (Attachment 5).

Written testimony in opposition to the bill was provided by the Kansas Bar Association and Kansas Collectors Association (Attachment 6 & 7).

The hearing on **HB 2293** was closed.

The hearing on **HB 2205 - real estate transaction; disclosures relating to special assessments and fees**, was opened.

Representative Larry Campbell requested the bill as an attempt to address situations where a person closes on their home only to find out that there are special assessments.

Don Seifert, City of Olathe, stated that these types of situations tend to be consumers who are purchasing a newly built home. The bill would require the seller of a property to disclose, at the time of signing the contract, if there is any existing or proposed special assessments affecting the real estate. Although notices of pending special assessments are included in the owner's title insurance policy, they are often overlooked (Attachment 8).

The Kansas Association of Realtors provided written testimony expressing concerns about the proposed bill (Attachment 9).

The hearing on **HB 2205** was closed.

The hearing on **HB 2297 - garnishment; release of funds if on order to pay is issued**, was opened.

Kathy Olsen, Kansas Bankers Association, explained that the proposed bill would amend both Chapter 60 & 61 to provide that if a garnishee does not receive an order to pay after a certain period of time then the garnishee may release the funds. The bill was drafted with a 60 time period but suggested that they would work with the collection industry to establish a time frame that is more reasonable (Attachment 10).

Matthew Goddard, Heartland Community Bankers Association, informed the committee that if the response to the garnishment order was in the affirmative, an order to pay is issued usually within two weeks but no more than 30 days (Attachment 11).

Written testimony in opposition to the 60 day time frame was provided by the Kansas Collectors Association (Attachment 12).

The hearing on **HB 2297** was closed.

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The hearing on **HB 2294 - construction defects; contractor's rights to cure prior to filing a civil action**, was opened.

Chris Wilson, Kansas Building Industry, explained that the proposed bill would require the homeowner to notify the builder of any alleged construction defects prior to filing a claim. This allows the builder the opportunity to inspect the home and to offer to make repairs, if warranted (Attachment 13). The Kansas Building Industry is currently working with several groups to reach some agreements on several issues and hoped to have amendments ready for the committee within the next week.

Wess Galyon, Wichita Builders Association, sees the proposed bill as a way to encourage companies to continue to write general liability for contractors in the state. Currently, three states have similar legislation (Attachment 14).

Dave Holtwick, Greater Kansas City Homebuilders, & Mike Perry, Topeka Homebuilders are encouraged by the bill because it allows for open communication which should lead to solutions to defect problems rather than running to court to file a lawsuit (Attachment 15).

Gary White, Kansas Trial Lawyers Association, originally opposed the proposed bill as written, but has been and will continue to work with the Kansas Building Industry to reach a agreement on several issues (Attachment 16).

The hearing on **HB 2294** was closed.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for February 24, 2003 at 12:00 p.m. in room 313-S.