

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CIVIL LAW

January 31, 2005 Hearing Room 357

8:30 a.m. Tapes 8 - 9

MEMBERS PRESENT: Rep. Bob Ackerman, Chair

Rep. Linda Flores

Rep. Bill Garrard

Rep. Kelley Wirth

STAFF PRESENT: Sam Sears, Committee Administrator

Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD AND WITNESSES:

HB 2286, Public Hearing and Work Session

Patrick Wade, Oregon State Bar

John Powell, Oregon State Sheriffs Association

HB 2287, Public Hearing and Work Session

Patrick Wade, Oregon State Bar

HB 2289, Public Hearing

Heather Gilmore, Oregon State Bar

HB 2290, Public Hearing and Work Session

Ryan Gibb, Oregon State Bar

HB 2291, Public Hearing and Work Session

Ryan Gibb, Oregon State Bar

HB 2292, Public Hearing

Kevin Gage, Oregon State Bar

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
--------	---------	----------

TAPE 8, A

004	Chair Ackerman	Calls the meeting to order at 8:35 a.m. Opens the public hearing on HB 2286, which requires that the sheriff accept cashier's checks and teller's checks from purchaser at execution sale.
-----	----------------	--

HB 2286 – PUBLIC HEARING

016	Patrick Wade	Debtor/Creditor Section, Oregon State Bar. Submits testimony and testifies in support of HB 2286 (exhibit a).
059	Rep. Garrard	Asks if bad checks are a problem.
060	Wade	Responds that there have been reports of bad checks being presented.
065	Rep. Macpherson	Inquires if a teller's check is guaranteed by the issuing bank.
073	Wade	Replies, that is correct.
082	John Powell	Oregon State Sheriff's Association. Testifies in support of HB 2286. Plans to continue to work with the bar as the bill continues through the process.
099	Chair Ackerman	Closes the public hearing and opens a work session on HB 2286.

HB 2286 – WORK SESSION

103	Rep. Garrard	MOTION: Moves HB 2286 to the full committee with a DO PASS recommendation.
-----	--------------	---

VOTE: 3-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Wirth

116 Chair Ackerman The motion CARRIES.
REP. ACKERMAN will lead discussion in the full committee.

117 Chair Ackerman Closes the work session on HB 2286 and opens a public hearing on HB 2287, which authorizes additional bankruptcy documents to be presented for recordation in deed records of counties.

HB 2287 – PUBLIC HEARING

123 Patrick Wade Debtor/Creditor Section, Oregon State Bar. Submits testimony and testifies in support of HB 2287 **(EXHIBIT B)**.

167 Chair Ackerman Closes the public hearing and opens a work session on HB 2287.

HB 2287 – WORK SESSION

167 Rep. Flores **MOTION: Moves HB 2287 to the full committee with a DO PASS recommendation.**

VOTE: 3-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Wirth

175 Chair Ackerman The motion CARRIES.
REP. FLORES will lead discussion in the full committee.

177 Chair Ackerman Closes the work session on HB 2287 and opens the public hearing on HB 2289.

HB 2289 – PUBLIC HEARING

184 Chair Ackerman Requests counsel to describe HB 2289.

187	Sam Sears	Counsel. Explains that HB 2289 removes the four-month time limit for filing supplemental affidavits to correct the original affidavit for estate property. Submits written testimony from Warren Deras in opposition of HB 2289 (EXHIBIT C) .
200	Heather Gilmore	Elder Law Section, Oregon State Bar. Submits testimony and testifies in support of HB 2289 (EXHIBITS D AND E) .
244	Chair Ackerman	Asks if “amend” original affidavit is a better term than “correct,” which could be interpreted more narrowly.
257	Gilmore	Responds that “correct” is the term agreeable to most members of the bar, but would not object to “amend” if the committee chooses to change the language.
277	Chair Ackerman	Asks counsel if the subcommittee can change the bill to “correct” instead of “amend.”
292	Sears	Advises that legislative counsel would need to participate.
296	Chair Ackerman	Plans to request an amendment and return HB 2289 for a final public hearing and work session. Closes the public hearing on HB 2289 and opens the public hearing on HB 2290, which extends time for filing accountings by personal representative and conservator from 30 to 60 days after specified events.

HB 2290 – PUBLIC HEARING

298	Ryan Gibb	Elder Law Section, Oregon State Bar. Submits testimony and testifies in support of HB 2290 (EXHIBIT F) .
367	Chair Ackerman	Closes the public hearing and opens a work session on HB 2290.

HB 2290 – WORK SESSION

373	Rep. Flores	MOTION: Moves HB 2290 to the full committee with a DO PASS recommendation.
-----	-------------	---

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

390 Chair Ackerman The motion CARRIES.

REP. FLORES will lead discussion in the full committee.

403 Chair Ackerman Closes the work session on HB 2290 and opens the public hearing on HB 2291, which allows trustee of trust to bring action on behalf of abused trustor or abused spouse of trustor who is incapacitated or 65 or more years of age.

HB 2291 – PUBLIC HEARING

405 Ryan Gibb Oregon State Bar. Submits testimony and testifies in support of HB 2291 **(EXHIBIT G)**.

TAPE 9, A

048 Chair Ackerman Closes the public hearing on HB 2291 and opens a work session.

HB 2291 – WORK SESSION

049 Rep. Garrard MOTION: Moves HB 2291 to the full committee with a DO PASS recommendation.

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

055 Chair Ackerman The motion CARRIES.

REP. GARRARD will lead discussion in the full committee.

056 Chair Ackerman Closes the work session on HB 2291 and opens the public hearing on HB 2292.

HB 2292 – PUBLIC HEARING

058 Sam Sears Counsel. Explains HB 2292, which permits court in judgment of annulment or dissolution of marriage to order revocation of designation of beneficiary made by principal in favor of spouse or relative of spouse in life insurance policy or under certain retirement plans or certain investment and bank accounts.

062	Kevin Gage	Executive Committee, Family Law Section, Oregon State Bar. Submits testimony and testifies in support of HB 2292 (EXHIBIT H).
091	Rep. Macpherson	Asks if under the law of wills the act of becoming divorced causes a naming of the former spouse to lose its legal effect and treats the former spouse as predeceased.
098	Gage	Responds, that is correct; however, HB 2292 addresses issues not involving wills.
100	Rep. Macpherson	Asks if tracking the law of wills, so that automatically without anything put in the judgment, it would have the same legal effect as it would if it were involving a testamentary device.
103	Gage	Replies that was an issue that came up last session. Explains that sometimes individuals want to retain the former spouse as the beneficiary, so do not want a rule that applies across the board.
120	Rep. Macpherson	Inquires if courts will routinely put into divorce decrees that beneficiary designations are automatically revoked.
124	Gage	Responds, no.
127	Chair Ackerman	Refers to the definition of “spouse” in line 3, page 2 of HB 2292, which reads “a person who is a party to a divorce from a principal.” States that staff indicates the term also applies to annulments and legal separations, so there appears to be a problem.
138	Gage	Believes that HB 2292 should apply to separation judgments and the omission was inadvertent.
141	Chair Ackerman	Plans to request an amendment to resolve the issue.
151	Chair Ackerman	Closes the public hearing on HB 2292.
154	Chair Ackerman	Adjourns the meeting at 9:10 a.m.

EXHIBIT SUMMARY

- A. HB 2286, written testimony, Patrick Wade, 2 pp
- B. HB 2287, written testimony, Patrick Wade, 1 p
- C. HB 2289, written testimony, Warren Deras, 1 p
- D. HB 2289, written testimony, Heather Gilmore, 1 p
- E. HB 2289, written testimony, Susan Ford Burns, 1 p
- F. HB 2290, written testimony, Ryan Gibb, 1 p
- G. HB 2291, written testimony, Ryan Gibb, 1 p
- H. HB 2292, written testimony, Kevin Gage, 1 p

The following material is submitted for the record without public testimony:

- I. HB 2290, written testimony, Warren Deras, 2 pp