

HOUSE COMMITTEE ON JUDICIARY

April 10, 2003 Hearing Room 357

1:00 pm Tapes 134 - 137

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman, Vice-Chair
 Rep. Gordon Anderson, Vice-Chair
 Rep. Jeff Barker
 Rep. Bob Jenson
 Rep. Jerry Krummel
 Rep. Greg Macpherson
 Rep. Floyd Prozanski
 Rep. Lane Shetterly

STAFF PRESENT: Bill Joseph, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD:
 HB 2758 Public Hearing
 HB 3196 Public Hearing and Work Session
 HB 2590 Public Hearing
 HB 2796 Public Hearing
 HB 2706 Public Hearing
 HB 2308 Work Session
 HB 2279 Work Session
 HB 3340 Public Hearing

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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 134, A		
022	Chair Williams	Opens meeting at 1:15 pm. Opens public hearing on HB 2758.
<u>HB 2758 PUBLIC HEARING</u>		
040	Linda Adlard	City of Beaverton. Testifies in support of HB 2758 which authorizes cities with populations of 35,000 or more to have photo red light cameras at up to eight intersections and submits testimony (EXHIBIT A). Describes Beaverton's experience with the photo red light cameras.
060	Forest Soth	Beaverton City Council. Testifies in support of HB 2758.
065	Dean Meisner	City of Beaverton Traffic Officer. Testifies in support of HB 2758.
109	Rep. Prozanski	Describes personal experience in Houston and their high fines.
111	Rep. Jenson	Comments he does not like the way the bill is written narrowing it to cities of certain populations.

138 Rep. Shetterly Describes attitude change since photo red light bill first appeared. Thinks there has been a change in movement.

159 Staff Submits letter in support of HB 2758 from Salem Chief of Police **(EXHIBIT B)**.

160 Chair Williams Closes public hearing on HB 2758 and opens public hearing on HB 3196.

HB 3196 PUBLIC HEARING

182 Rep. Macpherson Explains HB 3196 which authorizes photo radar in cities of Lake Oswego and Newberg.

200 Judie Hammerstad Lake Oswego Mayor. Supports HB 3196 and submits written testimony **(EXHIBIT C)**.

220 Dr. John R. Tongue Chair, Oregon Transportation Safety Committee. Testifies in support of HB 3196 and submits testimony **(EXHIBIT D)**.

252 Rep. Krummel Asks about all cities.
Rep. Macpherson Replies adding cities.

274 Rep. Dave Hunt House District 40. Wants to add city of Gladstone to bill.

300 Jeff Barnes Traffic Sergeant, City of Salem. Testifies in support of HB 3196 and submits testimony from City of Salem **(EXHIBIT E)**.

309 Staff Submits HB 3196-1 amendments **(EXHIBIT F)**.

310 Chair Williams Closes public hearing. Opens work session on HB 3196.

HB 3196 WORK SESSION

310 Rep. Jenson Supports this bill for all cities.

311 Rep. Krummel Comments that all cities should eventually have a chance to participate

312 Rep. Barker MOTION: Moves to ADOPT HB 3196-1 amendments dated 4/9/03.

VOTE: 9-0

313 Chair Williams Hearing no objection, declares the motion CARRIED.

314 Rep. Barker MOTION: Moves HB 3196 to the floor with a DO PASS AS AMENDED recommendation.

315 VOTE: 7-1-1
AYE: 7 - Ackerman, Anderson, Barker, Krummel, Macpherson, Shetterly, Williams
NAY: 1 - Jenson
EXCUSED: 1 - Prozanski

316 Chair Williams The motion CARRIES.

318 Chair Williams REP. MACPHERSON will lead discussion on the floor.
Closes work session on HB 3196. Opens public hearing on HB 2590.

HB 2590 PUBLIC HEARING

TAPE 135, A

032 Rep. Tootie Smith House District 18. Testifies in support of HB 2590 which allows principal real estate broker to claim lien upon commercial real estate that is subject of sale, lease or other conveyance. Explains why HB 2590 is needed.

065 Jana Jarvis Oregon Association of Realtors. Testifies in support of HB 2590 and submits testimony **(EXHIBIT G)**.

082 Jarvis Continues presentation on HB 2590. Discusses broker lien laws under consideration.

104 Joe Woods Executive Vice President, Commercial Firm. Re-emphasizes broker lien laws as opposed to lawsuits. Lien law is more equitable and more expedient than lawsuits.

140	Terry Shanky	Managing Director, Cushman and Wakefield. Testifies in support of HB 2590. Testifies about real estate transactions and expense of lawsuits and the time frame in the courts. Describes the bill as innocuous because there will not be rampant liens filed; most people comply with the agreements.
163	Rep. Prozanski	Asks for duration of liens.
167	Jarvis	Answers an average of two years.
170	Rep. Prozanski	Comments on recovery of attorney fees and asks if the contracts provide for that.
175	Shanky	Answers it can be.
180	Rep. Shetterly	Comments on sales agreements, and asks if listing agreements provide for arbitration too.
188	Woods	Responds that arbitration is preferred.
202	Rep. Shetterly	Asks if arbitration takes place before suits.
210	Woods	That is correct.
215	James Bentley	Commercial Association. Testifies in support of HB 2590.
227	Tom Akins	NACM Business Credit Services. Testifies in opposition to HB 2590 and submits testimony (EXHIBIT H) .
245	Pat Jones	NACM Business Credit Services. Testifies in opposition to HB 2590.
263	Greg Speck	Commercial Real Estate Developer, Beaverton. Testifies in opposition to HB 2590. Gives background on experience. Does not think HB 2590 is needed. States they did not have any input on this bill.
320	Rep. Barker	Asks how long it takes to take such a case to court.
326	Shanky	Explains the process of getting a lien filed.
TAPE 134, B		
044	Speck	Presents his view of what happens.
076	Rep. Shetterly	Asks on what grounds a dispute arises.
078	Speck	Answers how disputes come about.
096	Vice Chair Ackerman	Asks if you lose the case, would there be a lien against the property.
100	Speck	Responds he does not know. Comments on how business is done in the real estate industry.
120	Rep. Krummel	Asks what kinds of liens can be placed against commercial real estate. Suggests construction liens.
140	Rep. Jenson	Comments on the 1987 lien reform.
154	Shanley	Responds the broker does not participate in the construction on the real property.
164	Shanley	States their position. Says this bill creates a new class of lien claimant.
180	Dwight Trahin	World Trade Center Building Manager. Testifies in opposition to HB 2590.
184	Craig Lewis	Melvin Mark Commercial Real Estate. Owners, developers, and brokers. Testifies in opposition to HB 2590.
199	Pat Schreck	Melvin Mark Brokerage Company. Testifies in opposition to HB 2590.
237	Dick Cantlin	Real Estate lawyer, Board of NAOB. Testifies in opposition to HB 2590 which creates a special class of people giving self rights.
350	Cantlin	Continues presentation in opposition to HB 2590.
422	Rep. Prozanski	Asks when did states start using these lien laws.
TAPE 135, B		
033	Rep. Krummel	Asks if attorneys have lien rights in certain circumstances.

054	Paul Cosgrove	Oregon Financial Services. Testifies in opposition to HB 2590. Describes liens and leasing situations.
077	Jim Markee	Oregon Mortgage Lenders Association. Testifies in opposition to HB 2590. Says this bill is unnecessary.
086	Tim Martinez	Oregon Bankers Association. Testifies in opposition to HB 2590.
104	Staff	Submits written testimony in opposition to HB 2590 from John Carder, Melvin Mark Brokerage Company (EXHIBIT I); Portland Metro Association of Building Owners and Managers (EXHIBIT J); and Dan Petrusich for Melvin Mark Development Company (EXHIBIT K).
105	Chair Williams	Closes public hearing on HB 2590. Opens public hearing on HB 2796.

HB 2796 PUBLIC HEARING

147	Rep. Betsy Close	House District 15. Explains HB 2796 which expands types of proceedings in which murder of juror or witness becomes aggravated murder. Testifies in support of HB 2796 and submits testimony (EXHIBIT L). Opposes the -1 amendment.
175	Anne Pratt	Crime Victims United. Testifies in support of HB 2796 and submits testimony (EXHIBIT M). Adds that this loophole needs to be fixed.
201	Janyce Iturra	Testifies in support of HB 2796 without the amendment and submits written testimony (EXHIBIT N). Describes personal experience of her son being murdered as a witness to a crime.
251	Susan Russell	Oregon Criminal Defense Lawyers Association. Opposes HB 2796 and the -1 amendments. States the current murder statute is adequate for these circumstances. States HB 2796 would reduce discretion of the judge.
295	Rep. Jenson	Asks about the objection to capitol punishment.
343	Rep. Barker	Asks about juvenile proceedings.
350	Staff	Submits written testimony by Bradley Berry for the Office of Yamhill County District Attorney in opposition to HB 2796 (EXHIBIT O); Clarence Pugh for Oregonians for Alternatives to the Death Penalty (EXHIBIT P) and by David Reese, Deputy General Counsel for Office of the Governor (EXHIBIT Q). Submits the -1 amendment (EXHIBIT R).
381	Chair Williams	Mentions that this bill was vetoed in 2001 session and presently it would also be vetoed.
	Chair Williams	Closes public hearing on HB 2796. Opens public hearing on HB 2706.

HB 2706 PUBLIC HEARING

401	Stephen Kafoury	Professional Land Surveyors of Oregon. Testifies in support of HB 2706 which creates land surveyor lien for performance of land surveying activities. Submits -1 amendment (EXHIBIT S).
420	George Cathey	Land Surveyor, Salem. Testifies in support of HB 2706.
TAPE 136, A		
100	Rep. Krummel	Asks about lien privileges already in the law.
105	Kafoury	Responds that a boundary survey does not fit under that statute.
107	Rep. Shetterly	Discusses activities toward construction of property. This would include a survey, not necessarily construction, like a boundary survey, cutting timber.
123	Kafoury	Reiterates that is correct.
125	Rep. Ackerman	Relates to a partition.
130	Jack Munro	Oregon Land Title Association. Testifies as neutral. States the need to prioritize liens.

136	Paul Cosgrove	Oregon Financial Service Association. Explains the priority issue in liens. Opposes HB 2706.
153	Jim Markee	Oregon Mortgage Lenders Association. Opposes HB 2706. Adds information about contract disputes.
298	Staff	Submits letter in support of HB 2706 by Gregory Crites (EXHIBIT T) .
299	Chair Williams	Closes public hearing on HB 2706. Opens work session on HB 2308.

HB 2308 WORK SESSION

400	Rep. Williams	MOTION: Moves HB 2308 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Health and Human Services.
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VOTE: 7-0-2

EXCUSED: 2 - Barker, Macpherson

401	Chair Williams	Hearing no objection, declares the motion CARRIED.
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403	Chair Williams	Closes work session on HB 2308. Opens work session on HB 2279.
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HB 2279 WORK SESSION

415	Bill Joseph	Committee Counsel. States there are -1, -2, -3, and -4 amendments to HB 2279 (EXHIBIT U) .
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416	Jim Damis	Oregon State Bar. Discusses the amendments. Says no one has objected to the -3 amendments which are a combination of the -1 and the -2.
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430	Joyce Patton	Oregon State Bar, Public Affairs Program. States these are consensus amendments.
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448	Rep. Williams	MOTION: Moves to ADOPT HB 2279-4 amendments dated 4/9/03.
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VOTE: 6-0-3

EXCUSED: 3 - Barker, Jenson, Macpherson

449	Chair Williams	Hearing no objection, declares the motion CARRIED.
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450	Chair Williams	Says this bill will have another work session later. Closes work session on HB 2279. Opens public hearing on HB 3340.
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**HB 3340 PUBLIC HEARING
TAPE 137, A**

040	Richard Lane	Oregon Trial Lawyers Association. Says this is not his bill. Opposes HB 3340.
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042	Scott Gallant	Oregon Medical Association. Opposes HB 3340.
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045	Chair Williams	Closes the work session on HB 3340 and adjourns the meeting at 3:37 pm.
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EXHIBIT SUMMARY

A – HB 2758, written testimony, Linda Adlard, 5 pp

B – HB 2758, letter, Salem Chief of Police Walt Myers, 1 p

C – HB 3196, written testimony, Judie Hammerstad, 3 pp

D – HB 3196, written testimony, Dr. John Tongue, 1 p

E – HB 3196, letter, Jeff Barnes for Salem Police Department, 1 p

F – HB 3196-1 amendment, staff, 2 pp

G – HB 2590, written testimony, Jana Jarvis, 3 pp

H – HB 2590, written testimony, Tom Akins, Business Credit Services, 1 p

I – HB 2590, written testimony, John Carder, 1 p
J – HB 2590, written testimony, Building Owners and Managers, 2 pp
K – HB 2590, written testimony, Daniel Petrusich, 2 pp
L – HB 2796, written testimony, Rep. Betsy Close, 2 pp
M – HB 2796, written testimony, Anne Pratt, 1 p
N – HB 2796, written testimony, Janyce Iturra, 1 p
O – HB 2796, written testimony, Bradley Berry, 2 pp
P – HB 2796, written testimony, Clarence Pugh, 6 pp
Q – HB 2796, written testimony, David Reese, 1 p
R – HB 2796-1 amendment, Staff, 5 pp
S – HB 2706-1 amendment, Stephen Kafoury, 1 p
T – HB 2706, written testimony, Gregory Crites, 3 pp
U – HB 2279 -1, -2, -3, -4 amendments, staff, 10 pp.