

**HOUSE COMMITTEE ON JUDICIARY**  
**SUBCOMMITTEE ON CIVIL**

February 14, 2001  
8:00 a.m.

Hearing Room 357  
Tapes 15 and 16

**MEMBERS PRESENT:**     **Rep. Cherryl Walker, Chair**  
                              **Rep. Kathy Lowe**  
                              **Rep. Vic Backlund**  
                              **Rep. Charlie Ringo**  
                              **Rep. Lane Shetterly**

**STAFF PRESENT:**       **Marilyn Odell, Counsel**  
                              **Ann Martin, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **SB 171 Public Hearing**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 15, A</b>		
004	Chair Walker	Calls the meeting to order at 8:15 a.m. Opens the public hearing on SB 171.
<b>SB 171 PUBLIC HEARING</b>		
018	<b>Carl S. Bjerre</b>	<b>Associate Professor, University of Oregon Law School</b> Testifies in support of SB 171 and submits testimony ( <b>EXHIBIT A</b> ).
135	<b>Susan Evans Grabe</b>	<b>Oregon State Bar</b> Testifies in support of SB 171.
216	<b>Ken Sherman, Jr.</b>	<b>Oregon Bankers Association</b> Testifies in support of SB 171 and submits testimony ( <b>EXHIBITS B &amp; C</b> ).
<b>TAPE 16, A</b>		
001	<b>Sherman</b>	Continues testimony regarding revised Article 9.
035	Rep. Shetterly	Asks how the debtor gets to that point.
044	Sherman	Explains that different from current law, it gives a specific right that doesn't exist in the related party transaction. Says that the debtor would have to establish that there was a related party transaction taking place and have a basis for asserting that the fair market value of the automobile was greater than that obtained in the sale.
049	Bjerre	Adds that the bill requires secured parties to send a notice to the debtor explaining the monetary details of what the sale price was and what the attorney fees were, etc.
074	Sherman	Continues testimony in support of SB 171.
217	Rep. Shetterly	Asks if they are retaining the five-year period for financing statements.

219	Sherman	Answers yes, but there are some important transition rules from old to new.
226	Rep. Shetterly	Wonders how the work group felt about accommodating the Secretary of State's interest in not sending out the reminder notices.
240	Sherman	Says that the Secretary of State's office pointed out that Oregon is alone in having this reminder notice. Adds that the consensus of the work group was to proceed with the uniform language.
251	Rep. Shetterly	Comments that as a lawyer the reminder notices sent from the Secretary of State's office were a security blanket.
269	Grabe	Says that those were exactly the issues that were raised in the work group discussions.
272	Rep. Shetterly	Asks whom besides the Secretary of State was arguing against the reminder notices.
275	Grabe	Answers it was those people in favor of uniformity with the uniform act.
285	Sherman	States that this was not an easy issue to resolve.
310	Bjerre	Clarifies that any secured party who currently has financing statements in effect and who relies on these reminder notices is protected because the Secretary of State's Office is obligated until after the change in law.
331	Rep. Shetterly	Asks if the financing statement form is provided for.
334	Sherman	Answers that it is not in the bill, but the Secretary of State's office will use the uniform forms and put those out by rule.
341	Rep. Shetterly	Wonders how apparent is the five-year time limitation identified on the financing statement.
347	Bjerre	Says that Section 92, page 61, refers to a form of financing statement and that it is not one that filers must use, but one that the Secretary of State must accept.
366	Rep. Ringo	Asks if there was any discussion as to what type of resources was required by the Secretary of State's office to send out these notices.
369	Grabe	Answers that there was some discussion and Tom Wrosch from the Secretary of State's office is here and can provide more information with respect to these issues.
377	Sherman	Continues testimony in support of SB 171.
<b>TAPE 15, B</b>		
002	Sherman	Continues testimony in support of SB 171 and revised Article 9.
057	Sherman	Discusses the conceptual amendments ( <b>EXHIBIT D</b> ).
062	Rep. Ringo	Asks about consumer's rights to recover attorney's fees.
080	Bjerre	Answers that attorney fees would be recoverable in an incorrectly conducted foreclosure sale. Continues discussion of Article 9 and amendments to Section 68, page 46 and Section 70, page 48 of the bill.
158	Rep. Ringo	Asks about example of Workers Compensation benefits assignment.
165	Bjerre	Says that there are two references in the amendment to Workers Compensation.
174	Counsel Odell	States that the Workers Compensation cite is ORS 656.234.
184	Rep. Ringo	Asks about title lenders that are making aggressive loans based on expected recovery in injury cases.
203	Sherman	Answers that the proposed amendments only deal with

210	Bjerre	settlements that are actually in place. Continues testimony and summarizes that in essence what they have is a general policy of free alienation with a few exceptions they are asking for to override that to respect legislative judgments or contractual decisions that the parties have made.
225	Rep. Ringo	Wonders about specific context of health insurance care receivables.
230	Bjerre	Says that Article 9 will provide a firm statutory basis for that.
254	Rep. Shetterly	Comments that he has asked Legislative Counsel to draft an amendment to reinstate the Secretary of State's notice requirement. Asks why security interest is not referenced in ORS Chapter 79.
280	Sherman	Says that he doesn't have an answer.
287	Rep. Shetterly	Suggests that they amend Section 2, Subsection 2, under the list of definitions in other sections to refer to the definition of "security interest" back in ORS Chapter 71.
290	Sherman	Says that would be a good idea.
300	Rep. Shetterly	Asks about security interests that have to be re-filed and continuation statements in regards to the transition.
308	Bjerre	Responds that in terms of re-filing, most secured parties do not need to re-file. Points out that there are cases in which the place where you are supposed to file changes so that the parties may have to file in another state.
355	Sherman	States that the transition rules that might provide problems impact institutional lenders that are dealing in large interstate transactions.
366	Chair Walker	Closes the public hearing on SB 171 and adjourns the meeting at 10:35 a.m.

Submitted By,

Reviewed By,

Ann Martin,  
Committee Assistant

Marilyn Odell  
Counsel

**EXHIBIT SUMMARY**

**A – SB 171, written testimony, submitted by Carl Bjerre, Associate Professor of Law, University of Oregon, dated 2/14/2001, 2 pgs.**

**B – SB 171, written testimony, submitted by Ken Sherman, Jr., Oregon Bankers Association, dated 2/14/2001, 8 pgs.**

**C – SB 171, Section by Section Summary & Analysis of SB 171, submitted by Ken Sherman, Jr., Oregon Bankers Association, dated 1/15/2001, 70 pgs.**

**D – SB 171, conceptual amendments, submitted by staff, 2 pgs.**