

HOUSE COMMITTEE ON COMMERCE

May 20, 1997 Hearing Room 357

8:15 A.M. Tapes 44 - 45

MEMBERS PRESENT:

Rep. Eldon Johnson, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Ron Adams

Rep. Roger Beyer

Rep. Richard Devlin

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Jackie Taylor

Rep. Tom Whelan

STAFF PRESENT:

Keith Putman, Administrator

Timaree Whitty, Administrative Support

MEASURE/ISSUES HEARD:

HB 3358 - 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.

Tape/#	Speaker	Comments
Tape 44, A		
003	Chair Johnson	Opens meeting at 8:26 a.m. States that SB 85 and HB 3655 will not be heard. Opens public hearing on HB 3358.
<u>HB 3358</u> <u>PUBLIC</u> <u>HEARING</u>		

016	Keith Putman	Committee Administrator. States that the bill modifies which bank employees can deal with the insurance business of the bank. Mentions amendments proposed by Mr. Monroe not yet drafted.
020	Frank Brawner	Oregon Bankers Association. Submits written testimony (EXHIBIT A). Clarifies that the -1 amendments (EXHIBIT B) were proposed by his association. States that state-chartered banks have had the authority to sell insurance since 1987. Notes opponent's claims that banks can leverage the purchase of insurance through the process of approving or denying loans. States that the amendments address those concerns. Explains amendments. Notes that it is illegal for an employee to be both a bank teller and an insurance agent, which hurts smaller banks who can't afford to expand their payroll. States that the bill allows employees to fill both positions as long as they have no role in the loan process. Mentions recent court cases allowing national banks to sell insurance without restrictions.
074	Rep. Hill	States that his insurance company didn't send the proper information to his lending company on an automobile loan, and therefore his lending company procured insurance for him but the rates were too high. Asks how the bill would affect such a scenario.
083	Brawner	Answers that the bill does not address "forced placements." States that the bill only deals with the sale of insurance.
098	Chair Johnson	Agrees that a system which requires unreasonably priced coverage is not satisfactory.
100	Dave Nelson	Representing Oregon Life Underwriters Association. Expresses their concern that the loan process could give state-chartered banks an unfair competitive advantage over insurance agents in the selling of insurance. States that his association is satisfied with the amendments.
144	Chair Johnson	Questions whether the committee should have the amendments in front of them to better understand the testimony.
145	Putman	Answers that Mr. Brawner's version is in the meeting packets.
153	Nelson	Describes the OBA's proposed amendments.
162	Rep. Adams	Asks about lines 33-36.
166	Nelson	Answers that lines 30-32 are deleted.
183	Rep. Taylor	Asks if Mr. Nelson has any objections to the bill or to the amendments.
189	Nelson	Answers no.
198	Jack Manro	Independent Insurance Agents of Oregon. Agrees with Mr. Nelson's testimony.
203	Chair Johnson	Closes public hearing on HB 3358. Opens work session on HB 3358.

<u>HB 3358 - WORK SESSION</u>		
210	Rep. Hill	MOTION: Moves to ADOPT HB 3358-1 amendments dated 5/20/97.
215		VOTE: 9-0
	Chair	Hearing no objection, declares the motion CARRIED.
220	Rep. Hill	MOTION: Moves HB 3358 to the floor with a DO PASS AS AMENDED recommendation.
222		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES. REP. HILL will lead discussion on the floor.
230	Chair Johnson	Opens public hearing on HB 2259.
<u>HB 2259 - PUBLIC HEARING</u>		
236	Putman	Introduces the -5 amendments (EXHIBIT C). States that the amendments replace the language in bold print in the bill.
257	Nancy Murray	Real Estate Lawyer, Co-Chair of the Real Estate Legislative Committee for the Oregon State Bar. Submits written testimony (EXHIBIT D). States that the bar sponsors the bill. States that the bill represents compromises with the Associated General Contractors and the Equipment Leasing Industry. Mentions the need to clarify that real estate leases are exempt from statutes making indemnities void, noting that their inclusion wasn't originally intended by the proponents of that legislation. Notes work with the proponents on the submitted -5 amendments.
283	Chair Johnson	Asks for identification of the parties involved in the original legislation.
289	Murray	Identifies David Dalthwaight, lobbyist for Associated General Contractors, and Mike Scott, lobbyist for the Equipment Leasing Industry.
290	Rep. Beyer	Asks technical question regarding amendments.
292	Murray	Answers.
305	Rep. Adams	Asks for clarification of the bill.
306	Rep. Beyer	Notes the Equipment Leasing Industry's concern that the bill would adversely affect their leasing equipment to construction

		contractors. Notes that the parties have been working for four months to come to a compromise.
327	Putman	Gives hypothetical example. States that the bill clarifies what a construction contract is.
351	Rep. Adams	Asks for a description of a construction agreement.
353	Murray	Responds that the definition in statute is any contract dealing with construction, maintenance, and construction-related activities, noting that real estate leases deal with maintenance of real estate property. Reads definition verbatim.
387	Chair Johnson	Opens work session HB 2259.
<u>HB 2259 - WORK SESSION</u>		
394	Rep. Beyer	MOTION: Moves to ADOPT HB 2259-5 amendments dated 5/14/97.
405	Rep. Adams	Comments that the wording of the bill isn't clear.
415		VOTE: 9-0
	Chair	Hearing no objection, declares the motion CARRIED .
418	Rep. Beyer	MOTION: Moves HB 2259 to the floor with a DO PASS AS AMENDED recommendation.
422		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES . REP. BEYER will lead discussion on the floor.
TAPE 45, A		
010	Chair Johnson	Closes work session on HB 2259. Opens public hearing on HB 2255.
<u>HB 2255 - PUBLIC HEARING</u>		
027	Nancy Murray	Real Estate Lawyer and Co-Chair of the Real Estate Legislative Committee of the Oregon State Bar Association. States that the bill attempts to clarify the regulations regarding real estate leases. Cites 1994 case finding that a landlord could act unreasonably due to the fact that "reasonable action" wasn't specified in a particular section of statute.
049	Bill Linden	

		Representing Metro Multi-Family Housing Association. Supports the bill. Cites confusion brought by the 1994 court case. States that the bill would clarify the issue.
061	Rep. Hill	Asks if the witnesses are saying that if one provision explicitly requires reasonable action, than reasonable action is not required in all provisions where it is not explicit.
065	Murray	Answers yes.
068	Rep. Hill	Asks if there are cases where good faith is explicitly not required.
075	Murray	States that there are no "implied covenants" in real estate leasing.
083	Rep. Beyer	Suggests that the requirement to act reasonably exists even when it isn't specified in legislation. States that the bill is unnecessary and that the problem was created in the courts.
088	Chair Johnson	Agrees that the courts acted unreasonably, but states that if further legislation is needed than the committee has a duty to see to it.
090	Walt McMonies	Real Estate Lawyer. Agrees that the problem was created by the courts. States that the old law permitted any and all conditions in leases and so the tenant was responsible for looking after his/her own interests. States that. under the 1994 legislation, landlords are required to act reasonably until that requirement is specified in a particular context, in which case that requirement no longer applies generally but must be explicitly mentioned for every context.
124	Rep. Adams	Asks what "triggers the escape clause."
138	McMonies	Responds the language would have to be included in the lease.
154	Chair Johnson	Opens work session on HB 2255.
<u>HB 2255 - WORK SESSION</u>		
162	Rep. Hill	MOTION: Moves HB 2255 to the floor with a DO PASS recommendation.
164	Rep. Beyer	Comments that if a contract wrote "in the landlord's sole discretion," unreasonable behavior would still not be permissible.
169		VOTE: 8-1 AYE: 8 - Adams, Devlin, Hill, Montgomery, Taylor, Whelan, Wooten, Johnson NAY: 1 - Beyer
	Chair	The motion CARRIES. REP. TAYLOR will lead discussion on the floor.

176	Chair Johnson	Opens public hearing on HB 2795.
<u>HB 2795 - PUBLIC HEARING</u>		
186	Keith Putman	Committee Administrator. States that he hasn't received either a fiscal or a revenue statement on the bill.
198	Rep. Hill	Asks if this bill has a subsequent referral to Revenue.
199	Putman	Answers yes.
202	Frank Brawner	Oregon Bankers' Association. States that the bill gives tax credit for fees for small business finance, namely fees charged by the federal Small Business Administration program and the Capital Access and Credit Enhancement programs run through the Oregon Economic Development Department. Notes that access to these programs is limited to "unbankable" interests. States that the tax credit will be limited to 25% of the fees. Suggests that the \$1 million cost estimate for the tax credit is too high because it doesn't consider new employment.
238	Chair Johnson	Asks Mr. Brawner if he was referring to the -1 amendments (EXHIBIT E).
240	Brawner	Answers yes.
244	Rep. Wooten	Asks what the average tax credit would be for participants in the Credit Enhancement and Capital Access programs.
250	Dave Dolling	Finance Officer with OEDD. Responds that the average loan size for the Capital Access program is \$32,000-35,000 and that the average fee is around 4% of the loan. And for the Credit Enhancement program, the average loan size is \$250,000 and fees range from 1.25% to 4% depending on the term of the loan.
260	Rep. Wooten	Expresses concern that the bill could contradict efforts to keep these OEDD programs intact in budget negotiations.
280	Brawner	Defers to Rep. Wooten's expertise in prioritizing such budget considerations. States that the tax credits are a good idea, yet adds that the programs themselves should be given priority.
289	Rep. Wooten	Asks for Mr. Brawner's opinion regarding the status of the programs in the Ways and Means Committee.
295	Brawner	Cites meeting with a subcommittee chair who told him the programs are in good shape.
310	Rep. Wooten	States that she wants to support the bill. Reiterates concern with legislating tax credits at the expense of the programs themselves.
321	Brawner	Agrees. Mentions the precarious position of the Small Business Administration.
327	Rep. Hill	Asks if the only people eligible for the tax credits would be those applying in the next two years. Asks if the report on the success or failure of the tax credits would only include information from the first year.

355	Brawner	Answers that the proposed program would be a pilot project in order to determine its fiscal efficiency.
363	Rep. Hill	Asks if Mr. Brawner thinks the department is the right entity to perform the report.
373	Brawner	Answers yes.
376	Rep. Montgomery	States that the only justification for the state running such programs is job creation. Asks how many jobs these programs have created.
382	Brawner	Answers that the Credit Enhancement program has created 262 jobs.
TAPE 44, B		
005	Rep. Adams	Asks if participants in the programs would receive both a tax deduction and a tax credit.
007	Brawner	Responds that one can't receive a tax deduction on the amount for which one received a tax credit.
015	Rep. Adams	Asks if the SBA has a higher fee than OEDD's two programs.
017	Brawner	Answers yes.
018	Rep. Adams	Asks how much.
020	Dolling	States that the "real issue" is volume.
026	Rep. Adams	Asks if SBA would collect the funds while the state paid for tax credits.
028	Brawner	Responds that the borrower would receive tax credit on SBA's loan guarantee fees.
033	Rep. Adams	Asks if OEDD's programs benefit from SBA's fee.
036	Brawner	Answers no.
039	Rep. Adams	Expresses strong opposition to the bill.
044	Rep. Beyer	Notes three choices: 1) move the bill to Revenue, 2) decide if its good policy, or 3) stop the bill. Citing recent job growth in state, asks why the bill is needed.
057	Brawner	Responds that Oregon is a "small business state" and that the loans create opportunities where there are none. Comments that future job growth will of necessity be in the small business sector.
067	Rep. Beyer	Agrees that future job growth will be in the small business sector, yet disagrees that the tax credit will be significant. Opines that the \$1 million could be put to better use.
077	Chair Johnson	Opens work session on HB 2795.
<u>HB 2795 - WORK SESSION</u>		
077	Rep. Hill	MOTION: Moves to ADOPT HB 2795-1 amendments dated 5/5/97.

080		VOTE: 9-0
	Chair	Hearing no objection, declares the motion CARRIED .
085	Rep. Montgomery	MOTION: Moves HB 2795 to the floor with a DO PASS AS AMENDED recommendation with a referral to the Revenue Committee by prior reference.
096	Rep. Adams	Comments that for the committee to move the bill to the Revenue Committee solely with the intention that that committee would "kill" it would be an abrogation of their responsibility.
102	Rep. Beyer	Agrees.
107	Rep. Whelan	Agrees, noting the large number of existing tax credits.
112	Rep. Hill	States that he will support the bill noting that there are economically disadvantaged areas in the state.
117	Rep. Taylor	Notes that the Bank of Astoria has successfully employed such programs and that such programs promote small business. Expresses her hope that the revenue generated from the program will balance the \$1 million spent.
133	Rep. Montgomery	Cites unemployment rates of various counties. Expresses dissatisfaction with OEDD programs. States that rural Oregon needs help and that he will support the bill.
142		VOTE: 5-3 AYE: 5 - Devlin, Hill, Montgomery, Taylor, Johnson NAY: 3 - Adams, Beyer, Whelan EXCUSED: 1 - Wooten
	Chair	The motion CARRIES .
154	Chair Johnson	Opens public hearing on HB 2149.
<u>HB 2149 - PUBLIC HEARING</u>		
162	Keith Putman	Committee Administrator. Mentions that the Association of Oregon Counties opposed the bill because they felt it was an unfunded mandate. Mentions failed negotiations. States that without information coming from the counties the Oregon Housing and Community Services Department has decided it can no longer produce its mobile home park directory. Notes that the committee can: 1) pass the bill, 2) not pass the bill, and 3) lift the requirement that the department produce a directory.
195		

	David Sheelar	Oregon Housing and Community Services Department. Supports adoption of the -1 amendments (EXHIBIT F). States that the bill would standardize county assessors' reports on manufactured home. States that the assessors objected to the bill because of the fiscal impact of ballot measure 47.
250	Sheelar	Continues testimony. Lists counties not reporting, noting that they represent a significant percentage of the state's population. States that the amendments remove the requirement that the department produce the directory.
300	Chair Johnson	Asks if the department wants the requirement lifted.
304	Sheelar	Answers yes, adding that they hope to find other ways of getting the information.
310	Lynn Partin	Policy Analyst for the OHCSA. States that the department's preference is the original bill to receive the requisite information to produce the directory. States that the -1 amendments acknowledge the fact that the counties aren't producing the information and the political reality that the original wouldn't pass.
338	Rep. Beyer	Asks if the department receives a portion of the \$3 mobile home fee.
339	Partin	Answers that the department receives all of it.
342	Rep. Beyer	Asks what the department will do with the money.
345	Sheelar	Answers that they don't know yet.
362	Rep. Beyer	Asks about the possibility that the money could help county assessors pay for the reporting.
365	Partin	Notes that that option was discussed in the negotiations, but that they couldn't come to an agreement on the point with the AOC.
383	Rep. Devlin	Asks if there was consideration during negotiations of limiting the information required by the original bill which is not immediately available to the county assessors
403	Sheelar	Answers yes. States that the stumbling block of the negotiations was not the substance of the information required but rather how to raise revenue to allow counties to provide the information.
TAPE 45, B		
009	Rep. Montgomery	Asks how many mobile home parks there are in Oregon.
012	Sheelar	Gives the definition of a park. Answers that there are 1,336 in the state.
017	Chair Johnson	Closes public hearing on HB 2149. Adjourns meeting at 9:52 a.m.

Submitted By, Reviewed By,

Coben Tistadt, Keith Putman,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3358, written testimony, Frank Brawner, 11 pp.

B - HB 3358, LC amendments, staff, 1 p.

C - HB 2259, LC amendments, staff, 1 p.

D - HB 2255, written testimony, Nancy Murray, 1 p.

E - HB 2795, LC amendments, staff, 2 pp.

F - HB 2149, LC amendments, staff, 1 p.