

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CIVIL LAW

January 31, 1997 Hearing Room 357

1:00 P.M. Tapes 11 - 12

MEMBERS PRESENT:

Rep. Lane Shetterly, Chair

Rep. Judith Uherbelau, Vice-Chair

Rep. Jo Ann Bowman

Rep. George Eighmey

Rep. Charles Starr

Rep. Larry Wells

MEMBER EXCUSED: Rep. Roger Beyer

Rep. Floyd Prozanski

STAFF PRESENT:

Bill Taylor, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD:

HB 2241 - Work Session

HB 2247 - Work Session

HB 2248 - Work Session

HB 2256 - Work Session

HB 2261 - Work Session

HB 2262 - Work Session

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 11, A		
001	Chair Shetterly	Calls meeting to order at 1:04 p.m.
<u>HB 2241 - OPENS WORK SESSION</u>		
011	Blair Batson	Oregon State Bar Comments that Chair Shetterly had asked that some corrections be made to HB 2241 and that Jim Nass of the Court of Appeals had some concerns with the original draft of HB 2241. Requests that the subcommittee does not refer the bill to full committee until a bill is drafted that the Court of Appeals would also be happy with.
020	Jim Nass	Legal Counsel for the Court of Appeals Submits written testimony in opposition to HB 2241 as written (EXHIBIT A). Proposed amendments are also submitted as testimony to the subcommittee by staff (EXHIBIT B).
034	Chair Shetterly	Closes work session on HB 2241.
<u>HB 2247 - OPENS WORK SESSION</u>		
038	Bill Taylor	Committee Counsel Explains the bill to the members. Comments that there are no known amendments.
043	Rep. Wells	Asks if there is more to the bill than sending the money to the attorney and if it has to do with accounts.
048	Taylor	Answers that it has to do with attorney's trust account.
050	Rep. Wells	Comments that the heart of the bill deals with the lumping of money into one trust account, rather than having separate accounts for different things.
057	Chair Shetterly	Questions the language on line 38, page 2, and its clarity.
065	Carl Myers	Oregon State Bar Responds that the reference in the bill is to a generic account as opposed to a specific account, leaving room for the account to have names.
073	Comstock	Comments that financial institutions' own internal references to trust accounts mandates lawyer trust account as opposed to an attorney's trust account.
077	Chair Shetterly	Comments that he believes the intent of the bill will be clear.
080	Rep. Wells	Asks why a certain phrase included in language deleted from the bill is not appropriate (line 37).

085	Comstock	Comments that the provision mandated that there may be one specific account that can have all of the garnishment proceeds in it.
091	Chair Shetterly	Asks if the practice has been that commingling is client specific.
101	Rep. Eighmey	MOTION: Moves HB 2247 to the full committee with a DO PASS recommendation.
105	Rep. Wells	Asks if in practice commingling wasn't occurring and there were individual accounts. Asks if commingling is being allowed.
108	Comstock	Responds that the bill would allow total commingling
111	Rep. Wells	Asks if there will be one trust account to handle all funds.
113	Comstock	Responds that is correct.
118		VOTE: 6-0 EXCUSED: 2 - Beyer, Prozanski
	Chair Shetterly	Hearing no objection, declares the motion CARRIED. REP. UHERBELAU will lead discussion on the floor.
<u>HB 2248 - OPENS WORK SESSION</u>		
137	Taylor	Explains -1 amendments (EXHIBIT C) and bill.
161	Rep. Starr	MOTION: Moves to ADOPT HB 2248-1 amendments dated 1/31/97.
		VOTE: 6-0 EXCUSED: 2 - Beyer, Prozanski
164	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
166	Rep. Bowman	Asks for explanation of the -1 amendments.
170	Chair Shetterly	Responds.
181	Rep. Wells	Asks why this issue has not been brought up before and why is it important now.
183	Comstock	Responds that the bill is for law improvement, to clear up ambiguity. Discussion continues.
257	Rep. Wells	Reiterates the bill in his own words.
272	Comstock	Responds that he is correct.

278	Rep. Wells	Asks if the current statute does not state who has the first right in this argument.
280	Comstock	Comments that the bill would clarify that the trustee takes his direction from the bank.
284	Chair Shetterly	Explains that this is the way it is currently done; the bill just clarifies that the action is okay.
288	Taylor	Explains further.
310	Rep. Eighmey	MOTION: Moves HB 2248 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
		EXCUSED: 2 - Beyer, Prozanski
315	Chair Shetterly	Hearing no objection, declares the motion CARRIED. REP. STARR will lead discussion on the floor.
<u>HB 2256 - OPENS WORK SESSION</u>		
320	Taylor	Explains bill and amendments.
341	Shannon Johnson	Oregon State Bar Discusses recommended changes to HB 2256. Written testimony submitted by Gary L. Blacklidge (EXHIBIT D).
364	Rep. Wells	Gives an example and asks if would be considered a "wrap-around."
378	Johnson	Responds that is correct and explains further.
TAPE 12, A		
018	Johnson	Comments.
036	Rep. Eighmey	Asks if this only with regard to payments or with regard to the full debt owed.
043	Johnson	Responds that this bill is only for a wrap-around contract situation.
065	Rep. Bowman	Asks for clarification of who makes the decision for the payoff.
072	Johnson	Responds.
083	Rep. Eighmey	Comments that he wants to make certain the banks are comfortable with this.
087	Frank Brauner	Oregon Banker's Association Comments on how the banks would deal with the bill.
096	Chair Shetterly	Comments that though he believes the bill is good, it may be better to put the bill off until next week for clarification with the technical language.
110	Chair Shetterly	Comments on previous concerns.

124	Rep. Wells	Asks if the garnishment is going to come against the original owner of the property rather than the second buyer.
126	Chair Shetterly	Responds that is right.
127	Rep. Wells	Refers back to an earlier example and asks if the garnishment is coming from the person he bought from (in the example).
134	Johnson	Responds that the situation Rep. Wells described would not be addressed in this bill and explains.
157	Chair Shetterly	Explains further.
173	Taylor	Explains House Bills 2261 and 2262 together. Explains that there is an amendment to HB 2262 that amends HB 2261 into it (EXHIBIT E).
<u>HB 2261 - OPENS WORK SESSION</u>		
202	Jim Nass	Oregon State Bar Explains the merging of House Bills 2261 and 2262.
224	Chair Shetterly	Asks if any of the changes were substantive.
230	Rep. Bowman	MOTION: Moves to ADOPT HB 2262-1 amendments dated 1/29/97.
		VOTE: 5-0 EXCUSED: 3 - Beyer, Eighmey, Prozanski
235	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
243	Rep. Wells	Asks for clarification of appealing in domestic cases.
248	Nass	Explains.
260	Rep. Wells	Asks if this is the marriage dissolution judgment.
262	Nass	Responds.
289	Rep. Wells	Asks what this does to help or hinder domestic issues.
302	Nass	Responds.
350	Rep. Bowman	MOTION: Moves HB 2262 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0 EXCUSED: 3 - Beyer, Eighmey, Prozanski
355	Chair Shetterly	Hearing no objection, declares the motion CARRIED.

		REP. SHETTERLY will lead discussion on the floor.
360	Chair Shetterly	Adjourns the meeting at 1:54 p.m.

Submitted by, Reviewed by,

Lisa Fritz, Bill Taylor,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 2241, written testimony, James W. Nass, 5 pages.

B - HB 2241, proposed amendments, 1 page.

C - HB 2248, proposed amendments, 1 page.

D - HB 2256, written testimony, Gary L. Blacklidge, 4 pages.

E - HB 2262, proposed amendments, 10 pages.