

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CIVIL LAW

February 21, 1997 Hearing Room 357

1:00 P.M. Tapes 26 - 27

MEMBERS PRESENT:

Rep. Lane Shetterly, Chair

Rep. Judith Uherbelau, Vice-Chair

Rep. Roger Beyer

Rep. Jo Ann Bowman

Rep. George Eighmey

Rep. Floyd Prozanski

Rep. Charles Starr

Rep. Larry Wells

STAFF PRESENT:

Bill Taylor, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD:

HB 2237 - Work Session

HB 2419 - Public Hearing

HB 2508 - Public Hearing

HB 2415 - 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 26, A		

007	Chair Shetterly	Calls meeting to order at 1:04 p.m.
<u>HB 2508 - OPENS PUBLIC HEARING</u>		
014	Rep. Markum	District 46 Testifies in favor of HB 2508. We are losing the war on drugs, and I think this bill may offer a way to help combat the problem.
029	Rep. Wells	What does that first sentence of the bill say? Does that say what I think it says?
034	Bill Taylor	Committee Counsel This comes from a California statute. Explains how the statute came about.
043	Rep. Uherbelau	I think California has written a poorly crafted statute.
047	Rep. Wells	I think this is the height of our problems today. People do illegal things, and then they turn around and blame them on someone else.
050	Chair Shetterly	Closes Public Hearing
<u>OPENS WORK SESSION ON HB 2237</u>		
053	Bill Taylor	Discusses HB 2237 and the -2 amendments to the bill (EXHIBIT A).
065	Chair Shetterly	Suggests that "business" be added to line five of the -2 amendments.
068	Frank Brauner	Oregon Bankers' Association The addition of "business" would be fine with us.
081	Rep. Eighmey	I have reviewed the -2 amendments for tightening up the language. I think the -2 amendments, as well as the addition of "business", does tighten it up, but not so tight that it's unusable. I could support this.
099	Rep. Beyer	MOTION: Moves to ADOPT HB 2237-2 amendments dated 2/13/97 and that the measure be FURTHER AMENDED on page 1, line 5, by inserting "business" after "legitimate".
		VOTE: 8-0
105	Chair Shetterly	Hearing no objection, declares the motion CARRIED .

107	Rep. Prozanski	MOTION: Moves HB 2237 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 8-0
117	Chair Shetterly	The motion CARRIES. REP. PROZANSKI will lead discussion on the floor.
<u>OPENS PUBLIC HEARING ON HB 2419</u>		
140	Jim Markee	Oregon Collectors' Association Testifies in favor of HB 2419. Explains the process of fee determination, regarding bad checks.
169	Rep. Uherbelau	Did you say that courts are determining differently the "three times the damages" of the dishonored check?
177	Markee	Yes. Explains the law process concerning bad checks and the differences in that process in different jurisdictions.
181	Rep. Prozanski	Has either of those decisions/opinions been tested at the appellate level?
189	Jeff Hasson	Attorney from Portland, Oregon and legal counsel for the Oregon Collectors' Association Yes. There is a case pending now in the court of appeals. Submits written testimony in favor of HB 2419 (EXHIBIT B).
190	Rep. Prozanski	So, there is a case now in the court of appeals that will be making a decision as to what the trial courts should be doing?
201	Hasson	They are going to make a determination about what the statute means, pertaining to the old statute. We are trying to avoid future problems.
206	Rep. Prozanski	Are you concerned that the interpretation received from appellate courts may not be in the best interest of you or your clients?
212	Hasson	I can't say I have no concerns, but I'm confident that we'll prevail on the issue now pending. What's more troubling is that a court could make that interpretation, and another court can make another
232	Rep. Uherbelau	I having a little difficulty. You have just raised that the court is interpreting the current statutes in different ways. These type of things haven't been taking to the court of appeals?
244	Hasson	The problem is court can be very costly, and the checks may be small. It's an economic choice that clients have to make.
252	Rep. Uherbelau	If this bill passes, many attorneys will be very anxious. Why did you do it this way? It's difficult to change habit.
262	Hasson	This is supposed to be a clarification of law to put all relating statutes

049	Chair Shetterly	So the first sentence has to do with the substantive reason for the dishonored check, and the second sentence says that no matter what the bank calls it, there is not sufficient funds or a closed account? So, if the drawee's bank tells you that there is insufficient funds then you are still covered under the statute?
053	Hasson	That's correct, but it is not intended to cover stopped paychecks.
064	Rep. Prozanski	Does the bill have some type of restriction of prohibition that you cannot use the shoplifting statute?
068	Markee	Yes.
073	Chair Shetterly	Closes Public Hearing on HB 2508
<u>OPENS PUBLIC HEARING ON HB 2415</u>		
094	Jeff Hasson	Attorney from Portland, Oregon and legal counsel for the Oregon Collectors' Association Discusses HB 2415. Submits written testimony in favor of HB 2415 (EXHIBIT C). Comments that the Court Administrator's Office has some problems with the bill, and he would like to address those problems before pressing forward.
120	Rep. Beyer	In case of a contract, the judgment or execution would have to be ordered in the place the contract was signed?
126	Hasson	You have a choice, under the federal act, between where the debtor resides and where the contract was signed.
130	Rep. Beyer	Gives a personal example. Why does every contract I sign say that it will be ordered in Clackamas County?
134	Hasson	It might conflict with the federal law on consumer debts. Explains the process and differences between certain types of contracts.
144	Rep. Uherbelau	Isn't it your experience that most attorneys or collection agencies, etc., transcribe the judgment to where the debtor resides? I'm not sure why we need this because it is pretty much the way we already function.
155	Hasson	The reason is you can't issue executions out of those counties, where the debtors reside, at this points.
158	Rep. Uherbelau	Conflict with the federal law?
160	Hasson	Conflict with state and federal law.
161	Karen Hightower	State Court Administrator's Office Testifies on HB 2415 and the desire to obtain more background information, resolution of conflict, and feel for overall need for the bill before continuing.
188	Bill Taylor	Committee Counsel What is the need for section six?

200	Hasson	The federal act uses "single judicial district"; it does not use the word "venue" (except in the heading part). We anticipate that there may some times when you would want to issue it out of the county judgment was entered. We're trying to say that if the state law has that, and state law is a "single judicial district", then there wouldn't be a violation of whoever would come under the federal act.
218	Chair Shetterly	Closes Public Hearing Adjourns 1:45 p.m.

Submitted by, Reviewed by,

Lisa Fritz, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2237, proposed amendments, Legislative Counsel, 1 page.

B - HB 2419, written testimony, Jeffrey I. Hasson, Attorney for Oregon Collectors' Association, 2 pages.

C - HB 2415, written testimony, Jeffrey I. Hasson, Attorney for Oregon Collectors' Association, 1 page.