

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CIVIL LAW

March 14, 1997 Hearing Room 357

1:00 P.M. Tapes 38 - 39

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 2793 - Public Hearing

HB 2468 - Public Hearing

HB 3003 - 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 38, A		

005	Chair Shetterly	Calls the meeting to order at 1:10 p.m.
<u>OPENS PUBLIC HEARING ON HB 2793</u>		
015	David Barrows	Oregon League of Financial Institutions Submits written testimony in support of HB 2793 (EXHIBIT A). Identifies concerns of the Debtor-Creditor Section of the Oregon State Bar, regarding HB 2793, and submits proposed amendments believed to resolve the concerns (EXHIBIT B).
065	Rep. Wells	Comments that he is surprised at the Bar's concerns.
075	Barrows	This concerns a very unusual situation, but there are cases where people guarantee loans that are "at arms length," and it's not always the parents helping the kids. It is important that we have trust deeds that work best for all parties concerned because that is the preferred instrument.
090	Rep. Eighmey	One of the things I have concerns about is that this is not as comprehensive as you think. Reads aloud from (EXHIBIT B). Wouldn't it be a little better and more inclusive to say, "A guarantor's agents assign successors in interest?" You're trying to cover everybody, under the guarantor, but you also have included "grantor or successor in interest." I think that's what you are trying to cover, but is that what you want to do?
109	Ken Sherman, Jr.	Attorney for the Oregon Bankers Association Looking at the last two lines of the printed bill, all that new language allows is an action against a guarantor. That's the only person we are talking about. So, if we can only bring an action against a guarantor, we are only concerned with the action that a guarantor can bring against a third party. I don't think it's necessary to add new language.
127	Rep. Eighmey	Then why did you put that in?
130	Sherman	It is a typo. It should be "grantor" not "guarantor."
142	Maurice L. Russell	Debtor-Creditor Section of the Oregon State Bar I reviewed the proposal. First of all, the previous speakers have properly identified the Debtor-Creditor Section's concerns. We are primarily concerned with efforts that would have allowed a "back door" attack on a debtor and caused some problems regarding non-judicial foreclosures. I believe the proposed amendments substantially respond to those issues.
157	Bill Taylor	Committee Counsel Does that mean you support the bill as amended?
160	Russell	No, it doesn't. I don't have that authority. I can only say that it satisfies the concerns our committee expressed.
	Chair	

175	Shetterly	Closes Public Hearing on HB 2793.
<u>OPENS PUBLIC HEARING ON HB 3003</u>		
186	Rep. Floyd Prozanski	District 40 Discusses and testifies in favor of HB 3003. The bill was proposed to remedy the fact that \$25 dollars is not a hardship any more, and that there is no space in jail to put someone, in contempt of court, for 10 days. The fine has not been changed in 40 years.
214	Rep. Uherbelau	Did you do any calculations to see how much that \$25 would be worth today?
217	Rep. Prozanski	No.
220	Rep. Eighmey	Money has doubled every 12 years during that 40-year period, so it would be worth between \$300-400.
229	Chair Shetterly	Chapter 52, into which this amendment is placed, deals with justice courts. Does that statute also govern municipal courts, or are they covered under chapter 221?
234	Rep. Prozanski	It varies. There is a different statute for municipal courts, but from what I understand, the municipal courts have adopted the rules, processes, and procedures that are used in the justice courts.
250	John Gervais	Oregon Justice of the Peace Association We are in agreement of the testimony of Rep. Prozanski. \$25 doesn't get anyone's attention anymore. My understanding, from the president of the Municipal Court Judges Association, is that some communities have passed a higher contempt amount.
267	Rep. Prozanski	If the committee wants to go to a higher amount, I'd be more than willing to debate and consider that.
280	Rep. Eighmey	Are contempt of court fines also imposed upon lawyers for conduct in the court room, and would this cover those?
287	Rep. Prozanski	They could be, and I assume they would.
300	Chair Shetterly	Closes Public Hearing on HB 2468.
<u>OPENS PUBLIC HEARING ON HB 2468</u>		
	Jo Ann	Oregon Bankers Association Submits written testimony in favor of HB

323	Dewey	2468 (EXHIBIT C).
345	Chair Shetterly	For the members of the committee who have never dealt with writs of garnishment, would you explain the process and how the four copies play in?
351	Dewey	The reason we are requesting to reduce the four copies to one is to save paper and to change in proportion to technology. Gives background on the "four copy" procedure.
362	Chair Shetterly	Further explains the procedure and definitions.
376	Rep. Bowman	Why were the four copies originally required?
384	Russell	Four were required because that was how many were needed to be properly distributed within the institution. Photocopiers were not in effect at the time, but now, the institution is getting paid a processing fee to process the paperwork. They can throw it on the copy machine and distribute it to whoever they need to.
396	Jim Markee	Oregon Collectors Association I was part of this legislation back in 1989, and it is my recollection that the Department of Revenue wanted the four copies.
TAPE 39, A		
008	Rep. Bowman	Would you please explain how the search fee process works?
012	Markee	Gives background on the search fee, and explains the process.
033	Rep. Beyer	Do all four copies go to the bank?
035	Chair Shetterly	The judgment debtor gets their own set.
036	Markee	Actually, the judgment creditor has a set, and they have to send a copy to the debtor, in addition to the four that go to the bank.
040	Rep. Beyer	These are, I assume, very lengthy documents at times.
041	Chair Shetterly	They're basically set out in the bill.
044	Rep. Uherbelau	Have you discussed this with the business that prepares these documents?
046	Markee	Actually, most of the garnishment sets that are used by collection agencies are produced by an arm of the Oregon Collectors Association, which is a volunteer effort. All of the profits go into a scholarship fund.
058	Rep.	Why don't we put an escalated clause in each and every one of these bills? I find it so frustrating that we have to go back and change

	Eighmey	monetary values all the time.
067	Taylor	That has been done, but I've usually seen it done where the fees are larger than this.
087	Russell	If the fee were any larger, or if there were a large volume of such garnishments, you could find yourself with lawsuits, concerning whether the garnishment fee was one way or another, unless you were providing that garnishment was to be set by the Secretary of State, based upon the Consumer Price Index (CPI), so you would have a fixed dollar amount.
105	Rep. Beyer	Are we going to put \$10 in all the blanks in the bill?
111	Chair Shetterly	Yes. Adjourns at 1:45 p.m.

Submitted by, Reviewed by,

Lisa Fritz, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2793, written testimony, David Barrows, Oregon League of Financial Institutions, 3 pages.

B - HB 2793, proposed amendments, Oregon Bankers Association, 1 page.

C - HB 2468, written testimony, Jo Ann Dewey, Oregon Bankers Association, 2 pages.