

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes 96 & 97

MEMBERS PRESENT:

Sen. Bill Kenneker, Chair
Sen. John Lim, Vice-Chair
Sen. Gene Derfler
Sen. Joan Dukes
Sen. William McCoy

STAFF PRESENT:

Darrell W. Fuller, Committee Administrator
Carol A. Smith, Committee Assistant

MEASURES HEARD:

HB 2036-A Public Hearing
HB 2217-A Public Hearing and Work Session
HB 2219 Public Hearing and Work Session
HB 2099-A Work Session
HB 2969-A Public Hearing

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE 96, A

002 CHAIR: Calls the meeting to order at 3:08 p.m. Announces the
informational meeting on the insurance rates has been postponed.

004 CHAIR: Opens PUBLIC HEARING ON HB 2036 A.

DARRELL FULLER, COMMITTEE ADMINISTRATOR: Gives overview of HB 2036
A-Engrossed and notes the -4 (EXHIBIT A) and the -5 amendments (EXHIBIT B).

WITNESSES: Mary Alice Bjork, Department of Consumer and Business Services
Terry Meiers, Department of Consumer and Business Services
Jim Markee, Surplus Line Association
Ron Rothert, Surplus Lines Association
Jon Mangan, Standard Insurance Company
Wayne Pederson, Lewis And Clark College
John Evey, Oregon State University

020 MARY ALICE BJORK, Department of Consumer and Business Services:

Explains the bill and the programs it impacts.

--Explains one purpose of the bill is to establish a standard period of
time within which each of the requirements for continuing their certificate

of authority must be met.

--Bill also addresses licensing of educational institutions and non-profit
corporations which issue annuities.

042 DERFLER: Do you regulate how those funds are invested from the
annuities that are gifts to
colleges, YMCA, Boys and Girl's Club?

045 TERRY MARR, Insurance Division, Department of Consumer and Business
Services: No, we don't regulate the investments.

060 BJORK: Companies do not pay fee for issuance of certificate or for
continuation; DCBS is seeking authority to charge fees because regular
insurance companies subsidize the regulation of the organizations. Since
1989 the number of organizations has increased from 36 to 62 and about one
to license requests are received per month.

--Bill also applies to licensing of non-resident agents, adjusters and
insurance consultants. Explains current and proposed requirements
contained in bill.

3:15 Sen. McCoy enters meeting.

081 BJORK: Explains the fourth program in HB 2036 A-Eng. is a new program
which allows and facilitates the moving of an insurance domiciliary.

Explains how the program would apply.

091 --Legislation would bring Oregon in line with 40 other states and gives
an example .

102 SEN. DERFLER: Asks question regarding domicile in multiple states.

106 BJORK: This would allow them to change domicile without having to
refile everything that they have approved. Refers to opposition in the
House, and amendment on domiciliary. Advises that other amendments were
rejected by the House and those parties are here today. Introduces Lewis
Littlehales.

122 DERFLER: Are you taking a position on the amendments, or just

explaining them?

123 BJORK: Agency is neutral on the -A5 amendments relating to surplus lines. The commission is concerned over anything that is seen as a barrier

to competition. The amendment could potentially keep some agents out. However, surplus lines is a very complex area of insurance. Extra experience is warranted.

--Agency is opposed to the charitable annuity amendment (EXHIBIT A) because the agency doesn't believe it is good public policy to exempt something from the Insurance Code that has no safety net, no guaranty fund. Therefore, it is important they be financially regulated and monitored.

166 BJORK: Concern about anyone coming into town and passing themselves off as a charitable organization, or perhaps conduct a scam. These are sometimes complicated policies.

174 CHAIR: Do you have a history of violations in this area?

BJORK: No. But there are people who have applied for certification of authority that has not been approved.

174 MARR: Responds he has handled these and to his knowledge the agency has not declined any colleges or universities, but have declined other organizations who attempt to come in under other definitions as a charitable or religious organization when they don't meet the requirements of the statutes.

198 DERFLER: Why are you objecting to the bill?

CHAIR: The bill continues to allow colleges, universities and charitable organizations to operate outside of the framework of regulations. The agency opposes that; they want to regulate them. Adds there is no history of problems with colleges and universities. Plans to narrow the scope of the HB 2036-A4 amendments to bring it to that. There are scams by some quasi-charitable, quasi-religious organizations.

231 JIM MARKEE, SURPLUS LINE ASSOCIATION OF OREGON: Introduces Ron Rothert, comments Mr. Rothert has a prepared statement, and explains they are proposing the HB 2036-A5 amendments because their group met after the bill passed the House.
---A5 amendments would bring to Oregon a similar law to what is in place in Washington to require five years experience as a general lines agent either in Oregon or another state prior to becoming a surplus lines agent in Oregon.

241 RON ROTHERT, EXECUTIVE DIRECTOR, SURPLUS LINE ASSOCIATION OF OREGON: Submits and reviews written testimony (EXHIBIT D).

SEN. DUKES enters at 3:30 p.m.

282 MR. ROTHERT: Continues his presentation.

302 CHAIR: Question the need for the requirement "five years immediately preceding" in the HB 2036-A5 amendments.

322 MARKEE: Responds they would not object to loosening it up. The association did not want a requirement that would allow for stale experience, such as a twenty year hiatus.

333 CHAIR: Suggests perhaps a conceptual amendment is necessary. In the literal sense it may be too stringent.

327 MARKEE: Believes five years would work if it said "current".

336 SEN. MCCOY: What is the Surplus Line Association of Oregon?

ROTHERT: Explains their association is for the expressed purpose of supervising and examining each and every piece of business that is written in the surplus line market. Anyone writing a piece of business outside the admitted market must fill out an affidavit for the Insurance Division. That and the documents with the policy itself must be submitted to the Surplus Line Association office for examination to be certain that all laws have been complied with.

382 DAVE NELSON, OREGON LIFE UNDERWRITERS ASSOCIATION: Testimony in support of the bill and the -A5 amendment, and have been discussing amending the -A4 amendments.
--Amendment could be narrow in scope to the private institutions that have requested the exemption
--Understands more clearly the concerns about duplicity of regulation that occurs between the charitable foundations regulatory body and the Insurance Division.
--An amendment to restrict the application to colleges and universities could be done today

TAPE 97, SIDE A

003 CHAIR: Comments this could have an international scope; there are a lot

of organizations. Encourages Mr. Nelson to work with the proponents and Mr. Andeen and to come back to the committee with an amendment on Tuesday.

011 SEN. MCCOY: Questions whether there will be sufficient time to act on the bill.

014 CHAIR: Reviews meeting schedule.

024 JOHN EVEY, OREGON STATE UNIVERSITY: Submits and summarizes a written statement (EXHIBIT C).

049 EVEY: Continues his statement.

099 EVEY: Continues his statement.

110 WAYNE PEDERSON, VICE-PRESIDENT FOR BUSINESS AND FINANCE AND TREASURER, LEWIS AND CLARK COLLEGE: Here to endorse materials submitted by and testimony of John Evey as being representative of interests of the Oregon Independent Colleges Association. We are in full agreement with the testimony submitted to you today.

113 JON MANGAN, STANDARD INSURANCE COMPANY OF OREGON: Has a lot of agreement with comments and now understands some of the problems the annuities are experiencing. Offers to work with the committee on an amendment that would help streamline the regulatory process. Does not want to see inappropriate and excessive regulation.

121 SEN. DERFLER: Asks if it would work if the certified audit were exempt from regulation.

126 CHAIR: Responds that some private institutions may feel that is proprietary information; it sometimes releases the names of their donors and others.

134 EVEY: Doesn't know of an audit containing specific information about the donors. Suggests if a statement can be provided which indicates there has been an audit and that the reserve amount is indicated and attested to by auditors and officers of the organization, he would have no problem.

140 CHAIR: Requests that Dave Nelson coordinate a work group to resolve the concerns of the charitable and university organizations to find an agreement with the department on the HB 2036-A4 amendments.

163 EVEY: That initial certification process is extremely important. Solidity is very important to the offering of annuity.

168 CHAIR: Comments he does not want duplication of regulation, nor unnecessary regulation, nor regulation where there is no acknowledge problem; there is not one in this area.

164 SEN. LIM: Asks if there have been any abuses by the charitable organizations in Oregon.

174 EVEY: Not aware of any. It is doubtful that there would be any problems. With good certification standards, and with some kind of reasonable reserves there should be protection.

183 SEN. LIM: Expresses a concern about regulating a charitable organization, a religious group.

190 CHAIR: Closes PUBLIC HEARING on HB 2036 A.

191 CHAIR: Opens WORK SESSION on HB 2217 A-Eng.

197 CHAIR: Announces that Sen. Dukes is excused because her apartment ceiling tile fell in.

192 TOM WROSCH, SECRETARY OF STATE'S OFFICE, CORPORATION DIVISION: Submits written testimony in support of the HB 2217 A-Eng. (EXHIBIT E) and submits proposed amendments HB 2217-A4 (EXHIBIT F).

213 SEN. DERFLER: Will this allow a business to register one time?

225 WROSCH: Responds it will a business to register just as they do today. Every two years they would have to register in the counties.

DERFLER: What does the bill do?.

222 WROSCH: It allows businesses to file "real and true business names"; it does not require that filing--it is permissive. It gets the Corporation Division out of the area of making the distinction of whether it is a real and true name or an assumed business name. It also conforms certain housekeeping language to corporate statutes, primarily with the Limited Liability Corporation Act of last session. The Business Law section of the Oregon State Bar endorses the language changes.

239 SEN. LIM AND MR. WROSCH: Discuss operation of businesses under a name not registered.

CHAIR KENNEMER: Leaves the room, SEN. LIM assumes Chair of meeting.

250 DARRELL FULLER: Gives comments to help clarify.

263 MOTION: SEN. DERFLER moves to ADOPT the HB 2217-A4
VOTE: VICE-CHAIR LIM: Hearing no objection, the HB 2217-A4
ADOPTED.

CHAIR KENNEMER: returns to the meeting .

MOTION: SEN. DERFLER moves HB 2217-A to Floor, as amended,
recommendation.

297 SEN. LIM: I cannot support that. The current system is working well
and gives more flexibility to the business people.

VOTE: MOTION PASSES.
AYES: DERFLER, MCCOY, KENNEMER
NAY: SEN. LIM
EXCUSED: SEN. DUKES
CARRIER: SEN. DERFLER

310 CHAIR: Closes WORK SESSION on HB 2217 A-ENG..

CHAIR: Opens PUBLIC HEARING on HB 2219.

319 FULLER: Gives House history of bill and informs the committee the bill
has no fiscal impact.

WITNESSES: Tom Wrosch, Corporation Division

322 TOM WROSCH: Submits and reads a prepared statement in support of HB
2219 (EXHIBIT G).

343 SEN. DERFLER: Why can't this be done by rule making.

WROSCH: We don't have the authority to do so.

347 CHAIR: Closes PUBLIC HEARING on HB 2219.

CHAIR: Opens WORK SESSION on HB 2219.

375 MOTION: SEN. MCCOY moves HB 2219 to the Floor with a DO
recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, MCCOY, LIM and KENNEMER
EXCUSED: SEN. DUKES
CARRIER: SEN. MCCOY

400 CHAIR: Closes WORK SESSION on HB 2219.

398 CHAIR: Announces that the Work Session for SB 439 will be rescheduled
for Tuesday.

TAPE 96, SIDE B

CHAIR: Opens WORK SESSION on HB 2099

025 FULLER: Explains the bill previously had a DO PASS recommendation to HB

2099 but a conflict has arisen with another bill regarding sunset date and
emergency clause.

MOTION: CHAIR: Moves to RECONSIDER the vote whereby HB
the Floor.

036 VOTE: CHAIR: Hearing no objection, MOTION CARRIES.
SEN. DUKES IS EXCUSED.

016 Discussion continues regarding deletion of sunset date, and HB 2337
emergency clause.

SEN. DERFLER: Questions cost of handling bill in transition; believes it
is \$500.

JIM MARKEE: House Bill HB 2337 is not my bill. I was unaware that it was
in conflict with HB 2099, which is my bill. HB 2337 was passed out of
Senate Education Committee today. I believe you need to adopt the conflict
amendments.

039 MOTION: SEN. DERFLER moves to ADOPT the HB 2099- A2

SEN. DUKES IS EXCUSED. VOTE: CHAIR: Hearing no objection, the HB 2099-A2

MOTION: SEN. DERFLER moves HB 2099-A, as amended, to the
PASS recommendation.

VOTE: MOTION PASSES.
AYES: DERFLER, MCCOY, LIM and KENNEMER
EXCUSED: SEN. DUKES
CARRIER: SEN. LIM

070 CHAIR: Closes the WORK SESSION on HB 2099-A.

074 CHAIR: Opens WORK SESSION on HB 2969 A-Eng.

WITNESSES: Emily Cedarleaf, Multifamily Housing Council
John VanLandingham, Legal Aid
Pat Schwoch

ame

075 FULLER: Gives history of the bill and House vote.

CHAIR: Advises the committee of his request to those who are concerned about the bill to produce some written specific concerns and that it was shared with the work group. Also that the May 3 letter from the Coalition of Mobile Home Park and Floating Home Marina Residents of Oregon was previously delivered to members offices (EXHIBIT I), and that the memo dated May 4 is in response to the tenants concerns (EXHIBIT H).

080 JOHN VANLANDINGHAM, LEGAL AID: Tenants have raised twelve points. One theme throughout the 12 points is that mobile home parks--manufactured housing parks--are fundamentally different and this bill reverses the trend

toward creating a separate body of law for the.

--Disagrees; all of Chapter 90 applies to all residential tenancies anywhere of any kind in Oregon

--ORS 90.500 to 90.840 only apply to park tenancies; they get special rights other tenants do not get--they can only be evicted for cause

--The primary distinction between the two kind of tenancies is mobile home park tenants have more rights than non-park tenants; park tenants are covered by the rest of the act

--HB 2969 does not address the distinction

167 CHAIR: Is it fair to call you an expert?

168 VANLANDINGHAM: That would be correct.

--Regular landlord and tenants do not object to creating a separate chapter

for park tenants; it would be a difficult task--it is complex drafting, there is a risk of losing something in the transition, Legislative Council

doesn't like the idea, there isn't a chapter available next to 90 to put it into.

--Park owners and residents could negotiated for a separate statute

--A lot of objections are based on the desire for a separate chapter and complaints about existing law, not about HB 2969 does.

190 --Speaks to first complaint (EXHIBIT I, page 2) in this letter; Section 5 does what they want it to do

211 CHAIR: Suggests a representative for tenants join Mr. VanLandingham at the table and respond if there is a different perspective than Mr. VanLandingham's.

226 PAT SCHWOCH, OSTA, AND MEMBER OF THE MOBILE FLOATING HOME COALITION: Introduces herself.

205 FRANK BURLESON, CHAIRMAN, GREENWAY TENANTS' ASSOCIATION, AND MEMBER OF THE COALITION: Introduces himself.

232 EMILY CEDARLEAF, EXECUTIVE DIRECTOR, MULTIFAMILY HOUSING COUNCIL: Introduces herself.

238 BURLESON: Comments that Mr. VanLandingham's comments compliment the philosophy that has been present in the Landlord Tenant Act because tenants

have never participated in formulation of the law. We feel, contrary to Mr. VanLandingham's comments and in agreement with comments by Ms. Cedarleaf at the hearing in 1975 that four sections were created and have since grown. There is a growing body of law recognizing the fundamental differences between the two types of residences.

--Coalition sees this as a streamlining of the Landlord Tenant Act--a re-emerging of aspects, and would like to see trend continue

--Would like to see increase in stipulations in the 90.01 up to 90.5 of which ones do and do not apply

242 VANLANDINGHAM: Feels Section 5 will improve the legal position of park tenants in confirming those sections of the Act which apply only to the structure will be interpreted that way and will work to their benefit.

284 VANLANDINGHAM: Explains Section 7.

314 CEDARLEAF: From the onset, a park would have to choose to provide drug and alcohol free housing and be set up as a non-profit.

332 BURLESON: Asks if old parks cannot be changed, then why not stipulate that. Questions what tenants have been involved.

351 CEDARLEAF: Responds that she did spent a lot of time at the drug and alcohol housing in existence now and did meet with tenants and ask what kind of protections they wanted in a rental agreement.

364 PAT SCHWOCH: Cannot in my wildest dreams imagine a mobile home park that operates as a non-profit that is all alcohol and drug free.

376 CHAIR: Explains why he thinks this would not happen.

381 VANLANDINGHAM: Reviews Section 11.

434 CEDARLEAF: Adds that Section 11 is also a protection for tenants in parks.

449 BURLESON: Comments he does not see why a prospective tenant should be bound by a certain amount of money to go ahead with a contract which he found out during the waiting period was no good.

034 VANLANDINGHAM: Adds there is no current limitation in the Act on a landlord's ability or right to charge a deposit for any purpose of any amount or a fee for any amount for any purpose. This section may not go as

far as Mr. Burleson would like, but this is a compromise and it is refundable. It prohibits waiting list fees.

044 CHAIR: Likes this part of the law. This gets people's mind in gear when they have to put money down.

050 CEDARLEAF: Tenants have begged people to hold a space or the unit and have signed a rental agreement and if the space or unit isn't ready, there is no mechanism when they get their money back or what happens if they don't get their money back. protection by knowing when they would get their money back. Refers to something else, landlord? Refers to Campbell and legality of what he was doing.

075 VANLANDINGHAM. Explains Sections 12 and 13. Current law allows all residential landlords to charge a fee or deposit of any amount. There is no substantive change regarding that right.

CEDARLEAF: Adds a disclosure of fees, charges, deposits, etc. is required.

The statement of policy is given to the prospective park tenant when they are looking at the space. It just clarifies that prepaid rent is applied to rent and cannot be used for security deposit or cleaning damages.

095 SCHWOCH: Problem with landlord coming up with mysterious fees.

097 CEDARLEAF: Responds that the fee, in the statement of policy, has to be disclosed.

098 CHAIR: Can a landlord initiate a new fee in midstream?

102 CEDARLEAF: Responds that in a mobile home park, a rental agreement cannot be unilaterally changed without the consent of both parties. In a residential with 30-day rental contracts, the contract can be changed with a 30-day notice.

107 BURLESON: Questions why there should be an additional law saying they can charge a fee.

110 CEDARLEAF: Advises that in drafting she attempted to make sections for prepaid rent, security deposit, and non-refundable fees.

121 VANLANDINGHAM: Reviews Section 18.

134 SEN. LIM: Question what an emergency would be.

VANLANDINGHAM: Gives an example of an emergency.

142 CEDARLEAF: Gives example of a drug house and explains landlord's obligations and rights.

169 SEN. MCCOY: If a gas line bursts or a water line bursts, could you go in?

171 VANLANDINGHAM: The law is whatever a judge says it is on the day that you were there. The tenant may say, I object. The judge would have to decide.

--Explains Section 26

197 BURLESON: The eviction provision may mean something alarmingly different.

200 CHAIR: I just want to make sure that we are not doing violence to you in this mad rush.

206 PAT SCHWOCH: Comments about the time frame and feeling included.

216 VANLANDINGHAM: Reviews Sections 29 and 31.

228 CEDARLEAF: Explains tenants concerns with Section 35 giving an example of problems when a trailer-type park was sold to a new purchaser.

271 BURLESON: Questions why a tenant should be required to accept a translation of a verbal agreement.

287 VANLANDINGHAM: Adds he would read Section 35 to say that if the transcription of the oral agreement by the landlord did not accurately reflect the oral, the tenant would not have to sign it nor be bound by it.

290 CHAIR: These cases would be in violation of the law but would not be discovered until the new owner took over.

300 CEDARLEAF: Adds that prior to 1975 a written rental agreement was not required. Prior to 1978 an existing tenant didn't have to sign a written rental agreement. Some tenants were in the parks before 1978.

VANLANDINGHAM: Reviews Section 58.

330 BURLESON: Disagrees with Mr. VanLandingham; provisions apply to mobile homes and not to stick houses.

297 VANLANDINGHAM: Counters that the definitions apply to the whole act.

346 BURLESON: Agrees.

357 CHAIR: Announces that HB 2969 will be at the front of the agenda for work session next Tuesday.

368 CHAIR: (To Mr. VanLandingham or Ms. Cedarleaf) "Do you believe that there is anything in this bill that does damage to mobile home tenants?"

377 CEDARLEAF: "Absolutely not."

376 CHAIR: "Do you believe that there is anything that is a benefit not currently enjoyed by mobile home tenants?"

380 CEDARLEAF: "Sen. Kennemer, substantial amount of clarification for them and in fact solving the one and only problem they brought to me that they needed--political signs."

389 CHAIR: Closes PUBLIC HEARING on HB 2969.

CHAIR: Adjourns the meeting at 5:00 p.m.

EXHIBIT SUMMARY:

A - Proposed -4 amendments to HB 2036 A, Gary Andeen, Oregon Independent Colleges Association - 4 pages
B - Proposed -5 amendments to HB 2036 A, Jim Markee, Surplus Line - 2 pages
C - Testimony on HB 2217 A, Tom Wrosch, Corporation Division - 1 page
D - Proposed -4 amendments to HB 2217 A, Corporation Division - 1 page
E - Testimony on HB 2219, Tom Wrosch, Corporation Division - 2 pages
F - Testimony on HB 2969, John VanLandingham, Legal Aid - 3 pages
G - Testimony on HB 2969, Frank Burleson, Coalition of Mobile Home Parks - 10 pages
H - Testimony on HB 2969, John VanLandingham - 3 pages
I - Testimony on HB 2969, Frank Burleson - 10 pages