

SENATE COMMITTEE ON
JUDICIARY

January 18, 1995

Hearing Room C

3:00 P.M.

Tapes 11 - 12

MEMBERS PRESENT:
Sen. Neil Bryant, Chair
Sen. Ken Baker
Sen. Randy Miller
Sen. Peter Sorenson
Sen. Dick Springer
Sen. Shirley Stull

MEMBER EXCUSED: Sen. Jeannette Hamby

STAFF PRESENT: Max Williams II, Committee Counsel
Diane Dussler, Committee Assistant

MEASURES HEARD:
Bill Introduction - LC 2240
Public Hearing - SB 68, SB 69, SB 70, SB 71
Work Session - SB 69, SB 70, SB 71

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 11, A

003 CHAIR BRYANT: Calls meeting to order at 3:00 p.m.

BILL INTRODUCTIONS: LC 2240.

004 MAX WILLIAMS, Committee Counsel: Explains LC 2240 [EXHIBIT A].

MOTION: CHAIR BRYANT: Moves the committee introduce LC 2240.

VOTE: CHAIR BRYANT: Hearing no objections the motion CARRIES. SEN.
HAMBY is excused.

009 Opens the PUBLIC HEARING on SB 68

Witnesses:

Maurice Russell, Oregon State Bar, Debtors Creditors Section
Jeff Markee, Oregon Collectors Association
Jeff Hanson, Oregon Collectors Association

010 MAURICE RUSSELL, Oregon State Bar: Provides written testimony in favor
of SB 68, [EXHIBIT J] Personal testimony.

75 SEN. BAKER: Exemptions were changed last year. Must have missed this
one.

80 RUSSELL: Bar didn't propose change to this one, were working on
language.

083 SEN. SORENSON: What are the common exemptions?

RUSSELL: Exemptions more than doubled in some case.

137 JEFF HANSON: Provides testimony in opposition to SB 68. Explains how his practice is influenced when debtor files for bankruptcy or claims exemption for money garnisheed or executed on.

158 SEN. SORENSON: You will need to explain why you oppose this bill.

181 HANSON: I believe \$7,500 is enough for exemption.

195 CHAIR BRYANT: Questions when \$7,500 was adopted.

224 JIM MARKEE, Oregon Collectors Association: Speaks in opposition to SB 68. Bar association has testified they want \$15,000 level to conform to federal bankruptcy code. My association will endorse bill if it is used to conform exemptions to federal code.

236 WILLIAMS: I believe increase occurred in 1994.

Closes the PUBLIC HEARING on SB 68
Opens the PUBLIC HEARING on SB 69

WITNESS:

Mark Comstock, Oregon State Bar, Debtor Creditor Section

314 MARK COMSTOCK, Oregon State Bar: Presents testimony in favor of SB 69,
[EXHIBIT K]. Personal testimony with amendment.

TAPE 12, A

010 SEN. BAKER: Can they sign a debtor examination for appearance in this county?

015 COMSTOCK: Only if the debtor resides in that county or if debtor is employed in that county.

029 SEN. BAKER: Why are you involving another court in the paper work?

070 SEN. SORENSON: What problem is created if we make it clear that court has power to require judgment debtor who lives or works in another county to appear in a designated place?

079 COMSTOCK: That's another way of dealing with problems. Gets into practicable enforcement of order.

105 SEN. MILLER: Have you been back here since 1987 seeking a remedy or is this your first attempt?

114 COMSTOCK: We tried to bring a similar bill through last session, but it didn't get out of committee. It was SB 414.

Closes the PUBLIC HEARING on SB 69
Opens the WORK SESSION on SB 69

CHAIR BRYANT: Would like to amend SB 69 to reflect changes by sponsor which are on last page of testimony [EXHIBIT K].

SEN. SORENSON: Would like to invite state court administrators or judges association to submit a letter. Raising it as procedural question.

CHAIR BRYANT: Will pass it out, but if we get letter from judges saying they are concerned, I will pull it back.

MOTION: CHAIR BRYANT: Moves to adopt the [EXHIBIT K, PAGE 4] amendment.

VOTE: CHAIR BRYANT: Hearing no objection the amendment is ADOPTED. SEN. HAMBY is excused.

MOTION: SEN. MILLER: Moves that SB 69, AS AMENDED, be sent to the Floor with a DO PASS recommendation. CHAIR BRYANT will carry the bill. SEN. HAMBY is EXCUSED.

Opens the PUBLIC HEARING on SB 70

WITNESS:

Tom Stilley, Oregon State Bar, Debtor Creditor Section

117 TOM STILLEY, Oregon State Bar: Presents written testimony in favor of SB 79 [EXHIBIT M] Personal testimony.

228 CHAIR BRYANT: Staff has provided summary, ORS 72A which defines the finance lease. Committee can see this is limited.

241 SEN. SORENSON: Are there any opposition groups to this?

250 STILLEY: I am not aware that we had any discussion with them.

267 COMSTOCK: One opponent was Claude Ingram, plaintiff in Moe vs Beck.

297 SEN. SORENSON: Do you have any evidence that lessors are less willing to do business in Oregon?

302 STILLEY: I can't tell you that I know of any people that have refused.

There are companies that don't do installments sales.

320 SEN. SORENSON: How can they be held liable? Has a jury held a leasing company liable?

330 STILLEY: At trial level, they held in favor of defendant. It was reversed at Court of Appeals and affirmed at Supreme Court level.

379 COMSTOCK: Leasing company isn't at job site. Bill recognizes reality of how work is done.

Closes the PUBLIC HEARING on SB 70

Opens the WORK SESSION on SB 70

SEN. SORENSON: Would like more discussion by those whom bill may effect.

Can only speculate on what happened when case was remained for trial. May be difference of opinion on leasing company used to lessen liability.

TAPE 11, B

040 CHAIR BRYANT: I favor this bill. It allows people to have another option to finance what they're buying.

SEN. MILLER: I would support it on basis it is a common sense clarification. Suggest to Sen. Sorenson that groups that might oppose it are good about monitoring process.

SEN. BAKER: This is usually a paper flow concern.

MOTION: CHAIR BRYANT: Moves that SB 70 be sent to the Floor with a DO PASS recommendation.

075 VOTE: In a roll call vote, SENS. MILLER, STULL, BAKER, BRYANT vote AYE. SENS. SPRINGER, SORENSON vote NAY. SEN. HAMBY is EXCUSED. SEN. BAKER will carry the bill to the Floor.

Opens the PUBLIC HEARING on SB 71

Witness:

Mark Comstock, Oregon State Bar, Debtor Creditor Section

090 MARK COMSTOCK, Oregon State Bar: Presents written testimony on SB 71 [EXHIBIT N]. Personal testimony with amendment.

141 SEN. BAKER: Is there a mechanism for the bankers appellate panel that
can certify questions to district court and they certify it to state?

145 COMSTOCK: To my knowledge there is not a way for bankruptcy appellate
panel to kick it to a federal district.

Closes the PUBLIC HEARING on SB 71
Opens the WORK SESSION on SB 71

MOTION: CHAIR BRYANT: Moves to adopt the [EXHIBIT N, PAGE 4] amendment.

VOTE: CHAIR BRYANT: Hearing no objection the amendment is ADOPTED. SEN.
HAMBY is excused.

MOTION: SEN. BAKER: Moves that SB 71, AS AMENDED, be sent to the Floor
with a DO PASS recommendation. SEN. SORENSON will carry bill to the Floor.
SEN. HAMBY is EXCUSED.

VOTE: CHAIR BRYANT: Hearing no objections the motion CARRIES.

CHAIR BRYANT: Adjourns meeting at 4:45 p.m.

Submitted by, Reviewed by,

DIANE DUSSLER M. MAX WILLIAMS, II
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A-- LC 2240--Staff--10 pages
B-- SB 68 SMS--Staff--1 page
C-- SB 68--2 pages
D-- SB 69 SMS--Staff--1 page
E-- SB 69--2 pages
F-- SB 70--SMS--Staff---1 page
G-- SB 70--2 pages
H-- SB 71 SMS--Staff--1 page
I-- SB 71--1 page
J-- Testimony on SB 68--Maurice Russell--2 pages
K-- Testimony with amendment on SB 69--Mark Comstock--4 pages
L-- Testimony on SB 69--Kingsley Click--1 page
M-- Testimony on SB 70--Thomas Stilley--3 pages
N-- Testimony with amendment on SB 71--Mark Comstock--4 pages