

SENATE COMMITTEE ON  
JUDICIARY

February 16, 1995 3:00 P.M.

Hearing Room C  
Tapes 35 - 36

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

MEMBER EXCUSED: Sen. Randy Miller  
Sen. Ken Baker

STAFF PRESENT: M. Max Williams II, Committee Counsel Julie Clemente,  
Committee Assistant

MEASURES HEARD Introduction of Committee Bills: Public Hearing: Public  
Hearing & Work Session: LC 2731 SB - 428 SB - 422 SB - 424 SB - 68 SB - 324

These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Oniv text enclosed in quotation marks  
report a speaker's exact words. For complete contents of the proceedings,  
please refer to the tapes.

TAPE 35, SIDE A

05 CHAIR BRYANT: Calls committee to order

05 MAX WILLIAMS: LC Draft 2731 Revises laws relating to Grand Juries.

MOTION: CHAIR BRYANT: Moves the committee introduce LC 2731.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members  
present vote AYE. Senators Miller and Baker are excused.

09 CHAIR BRYANT: Reminds that on Tuesday, the Committee will meet the first  
hour as a full committee and then adjourn to separate sub-committees

18 OPENS PUBLIC HEARING ON SB 422

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Witnesses: Jim Markee, Oregon Collectors' Association  
John Hasson, Legal Counsel for the Oregon Collectors' Association

25 JIM MARKEE, Oregon Collectors' Association: Testifies in favor of SB 422.  
1EXHIBIT B].

JOHN HASSON, Legal Counsel for the Oregon Collectors' Association: Concurs.

69 CLOSES PUBLIC HEARING OH SB 422  
OPENS WORK SESSION ON SB 422

MOTION: SEN. HAMBY: Moves SB 422 be sent to the Floor with a DO PASS  
recommendation .

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All  
members present vote AYE. Senators Bryant and Baker are excused.

SEN. STULL will lead discussion on the Floor.

78 OPENS PUBLIC HEARING ON SB 424

Witnesses: Jim Markee~ Oregon Collectors Association  
JeffHasson, Legal Counsel, Oregon Collectors' Association  
David Nebel, Oregon Legal Services

81 JIM MARKEE, Oregon Collectors' Association: Testifies in favor of SB  
424. [EMIIBIT C]

41 SEN. SORENSON: Interested in knowing how 45-day rule intersects with  
90-day rule.

179 MARKEE: Continues to answer questions. Do have to disburse the money  
within 30 days to our client. 60-day period beyond with which the debtor has  
to file the Notice of Exemption.

189 JEFF HASSON, Legal Counsel, Oregon Collectors' Association: Responds to  
statements  
regarding Notice of Exemption.

222 DAVID NEBEL, Oregon Legal Services for low-income clients of Oregon's  
legal aid programs: Presents testimony in opposition of SB 424.

263 Continues testimony referring to [EXHIBIT B1.

312 SEN. BAKER: Is that a complicated document?

NEBEL: No.

330 SEN. SORENSON: Agrees with Sen. Baker.

347 NEBEL: Suggests another way to deal with this.

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CLOSES PUBLIC HEARING ON SB 424  
OPENS WORK SESSION ON SB 424

MOTION: SEN. STULL: Moves SB 424 be sent to the floor with a DO PASS  
recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members  
present vote AYE. Senators Miller and Springer are excused.

SEN. STULL will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 424

OPENS PUBLIC HEARING ON SB 428

388 Witnesses: Jim Markee, Oregon Collectors' Association  
JeffHasson, Legal Counsel, Oregon Collectors' Association  
Wayne Cody, Owner and Operator, The Commercial Agency

413 JIM MARKEE, Oregon Collectors' Association: Offers testimony in favor of  
SB 428.  
[EXHIBIT E1

TAPE 36, SIDE A

067 JEFF HASSON, Legal Counsel, Oregon Collectors' Association: Presents

testimony in favor of SB 42X.

102 WAYNE CODY, Owner and Operator, The Commercial Agency: Testifies in  
favor of SB 428.

113 CHAIR BRYANT: Under current law referring to the conspicuous statement,  
that isn't  
a workable solution'?

125 HASSON: Sending out notices all the time may be workable for a large  
business; for a  
small business person, it is not a workable situation.

172 Witnesses: Steven P. Rodeman, Vice President, General Counsel, Oregon  
Credit Union  
League  
Kenneth Sherman, Jr., Counsel for the Oregon Bankers' Association  
Gary Lindberg, Vice President and Associate General Counsel, First  
Interstate  
Bank

David DeBlasio, Attorney, Harrington, Anderson & DeBlasio Attorneys at Law

206 KEN SHERMAN, Jr., Counsel for the Oregon Bankers Association:  
Testifies in opposition to SB 428. [EXHIBIT G

287 Continues.

314 GARY LINDBERG, Vice President and Senior Counsel, First Interstate Bank:  
Testifies  
in opposition to SB 428. [EXHIBIT H]

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362 Continues.

390 The language of SB 428 seems quite  
simple.

434 A debtor who knows the full amount of the obligation could still submit  
a check for a lesser amount and if the check slipped through, the creditor  
would be out of luck.

TAPE 35, SIDE B

46 LINDBERG: Continues.

82 STEVEN P. RODEMAN, Vice President/General Counsel, Oregon Credit Union  
League: Presents written testimony in opposition to SB 428. [EXHIBIT F]

110 CHAIR BRYANT: Recognize the distinction of financial institutions and  
credit agencies and operate under the existing statute.

130 LINDBERG: It's my view that the nonuniformity problem would likely turn  
out to be more of a problem for the small business person than it would be  
for the financial institution.

172 SEN. SORENSON: Is there any way to resolve this dispute - just a  
matter of policy choice?

214 LINDBERG: Present language can work.

219 SEN. STULL: Very sensitive to the fact that Oregon is a small business state. Clarify where larger groups get hurt, other than losing uniformity.

277 DAVID DeBLASIO, Attorney, Harrington, Anderson & DeBlasio, Attorneys at  
Law: Presents testimony in favor of SB 428. [EXHIBIT I]

340 Continues.

CLOSES PUBLIC HEARING ON SB 428

413 OPENS PUBLIC HEARING ON SB 68

Witnesses: Jim Markee, Oregon Collectors' Association Jeff Hasson, Legal Counsel, Oregon Collectors' Association Mark Comstock, Oregon State Bar

JEFF COMSTOCK, Oregon State Bar: We have agreed that the language we have prepared in the printed bill will stay and that the number that we proposed that the exemption will go up to will be changed. New number will be \$10,000.

CHAIR BRYANT: As I look at page 2, section B line 1, that would be \$10,000 and the deleted language that is in the bracket would remain deleted.?

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JIM MARKEE, Oregon Collectors' Association: That is correct, line 1, page 2 of the bill would read the \$15,000 would be deleted and insert \$10,000 All of the bill would remain the same

CLOSES PUBLIC HEARING ON SB 68  
OPENS WORK SESSION ON SB 68

MOTION: CHAIR BRYANT: Moves to ADOPT the SB 68 amendment that would delete "\$15,000" and insert "\$10,000" on line 1, page 2.

VOTE: CHAIR BRYANT: Hearing no objection the amendment is ADOPTED. All members present vote AYE. Senators Hamby, Miller and Springer are excused.

MOTION: SEN. BAKER: Moves that SB 68, AS AMENDED, be sent to the Floor with a DO PASS recommendation

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members present vote AYE. Senators Hamby, Miller and Springer are excused.

SEN. BAKER will lead discussion on the Floor

TAPE 36, SIDE B

49 OPENS PUBLIC HEARING ON SB 324

Witness: Gail Ryder, Director of Government Affairs, Oregon Newspaper Publishers Association

67 CHAIR BRYANT: Chair drafted SB 324 at the request senators who heard from attorneys who do estate planning work Purpose is to clean up some awkward language

without substantive changes from the old law and raise the dollar amount of the size of the estate for which descendants are allowed to file a small estate affidavit instead of seeking appointment of a personal representative

Continues testimony, explaining in further detail how the small estate procedure works At any time a personal representative can be appointed and the estate goes through probate

104 MAX WILLIAMS: It is my understanding that title companies continue to charge an additional premium for handling small estates

112 SEN. BAKER: Presents different view pf SB 324. Deals with a lot of people who have small estates Feels once beyond \$25,000 a professional is needed to at least advise

151 GAIL RYDER, Director of Government Affairs, Oregon Newspaper Publishers Association:  
Reads written testimony in opposition to SB 324. [EXHIBIT J]

186 SEN. SPRINGER: Are there any publication requirements for small estate procedures'?

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RYDER: No requirements.

208 CHAIR BRYANT: I have a compromise. What about lowering the estate's fair-market value to \$115,000, lowering personal property to \$25,000. .

SEN. BAKER: Feels more comfortable, but doesn't like the whole concept.

CLOSES PUBLIC HEARING ON SB 324 OPENS WORK SESSION ON SB 324

221 SEN. SORESENSEN: Doesn't see a problem with the numbers in the bill. Has sensitivity to the people who go to a lawyer after they have botched the process on their own. Will save money if they do small estate procedure right, but will cost them more, if done wrong.

276 SEN. STULL: In reality, it's about people's right to make some choices over their destiny. Many people are capable of doing this type of thing without a lawyer's intervention. From a realtor's standpoint, title companies are extremely competent in doing title searches and helping folks make sure they are acquiring clear title.

319 SEN. SORESENSEN: Is there a way within the statute, to give people a statutory warning for those who should not be doing this type of thing by themselves.

334 CHAIR BRYANT: This hasn't been done before. Best safeguard is the probate judges that handle this thing. Would be happy to talk to the judges.

MOTION: CHAIR BRYANT: Moves that SB 324 be amended to reflect \$115,000 on line 17 and to \$25,000 on line 18.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. All members present vote AYE. Senators Hamby, Miller and Springer are excused.

MOTION: CHAIR BRYANT: Moves that SB 324, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members present vote AYE. Senators Hamby, Miller and Springer are excused.

CHAIR BRYANT will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 324

CHAIR BRYANT: Adjourns at 4:55 p.m.

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Submitted by:

Julie Clemente  
Committee Assistant

Reviewed by:

#### EXHIBIT LOG

A -- Letter from Shannon, Mohnson & Bailey re SB 324 -- Staff-- 2 pages  
B --Collection and Debt Consolidating Agencies, SB 424 -- Jim Markee -- 2 pages  
C --Notice of Exempt Property, SB 424 -- Jim Markee -- 2 pages  
D -- Testimony - SB 424 -- David Nebel -- 2 pages  
E -- Public Financial Administration, SB 428 -- Jim Markee -- 1 page  
F -- Testimony on SB 428 -- Kenneth Sherman, Jr. -- 6 pages  
G -- Testimony SB 428 -- Gary W. Lindberg -- 3 pages  
H -- Testimony SB 428 --Patrick Rodeman -- 1 page  
I -- Testimony SB 428 -- David DeBlasio -- 2 pages  
J --Testimony SB 324 -- Gail Ryder -- 1 page

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