

SENATE COMMITTEE ON BUSINESS, HOUSING AND CONSUMER AFFAIRS

March 3, 1993 Hearing Room 343 3:00 p.m. Tapes 24 - 26

MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Bill Kennemer, Vice-Chair
Sen. Brady Adams Sen. Ron Cease Sen. Peg Jolin

MEMBER EXCUSED:

VISITING MEMBER:

STAFF PRESENT: Cherie Copeland, Committee Administrator Richard
Day-Reynolds, Committee Assistant

MEASURES CONSIDERED: Possible introduction of Committee Bills

Public Hearing and Work Session: SB 449 - Allows Director
of Veterans' Affairs to enter into contracts with credit unions

for processing and servicing of veterans, farm and home loans. SB 444
- Prohibits requiring person writing check or share
draft to disclose credit card

number or expiration date. Work Session: SB 391 - Modifies
termination of tenancy of rental space for manufactured
dwellings,

residential vehicles and floating homes. SB 390 - Deletes
specific procedures concerning manufactured dwelling and floating
home

space tenants objecting to substantial

modification of rental agreement.

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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. [--- Unable To Translate
Graphic ---]

TAPE 24, SIDE A

017 VICE-CHAIR KENNEMER calls the meeting to order at 3:15.

(Tape 24, Side A) INTRODUCTION OF COMMITTEE BILLS 020 CHERIE COPELAND,
COMMITTEE ADMINISTRATOR: Gives overview of LC 2938, LC 3580 and LC
3511.

029 MOTION: SEN. KENNEMER moves that LC 2938, LC 3580 and LC
3511 be introduced as committee bills.

031 CHAIR KENNEMER: Hearing no objection, SO ORDERED.

(Tape 24, Side A) SB 449 - ALLOWS DIRECTOR OF VETERENS' AFFAIRS TO ENTER INTO CONTRACTS WITH CREDIT UNIONS FOR PROCESSING AND SERVICING OF VETERENS' FARM AND HOME LOANS - PUBLIC HEARING Witnesses: Jon Mangis, Oregon Department of Veterens' Affairs Frank Wallace, Oregon Department of Veterens' Affairs Steve Rodeman, Credit Union League Teresa Lewis, Federal Metals Central Credit Union

308 VICE-CHAIR KENNEMER: Turns the hearing over to CHAIR DWYER.

310 JON MANGIS, OREGON DEPARTMENT OF VETERANS' AFFAIRS: No opinion. Gave a brief history of the ODVA's loan program.

332 SEN. JOLIN: Is there any problem in allowing credit unions to participate in this?

335 MANGIS: They would have to meet the same requirements that banks and savings and loans have to meet.

339 SEN. CEASE: There are a number of places in any area to get this service, is that correct?

MANGIS: We contract with private lenders to provide the service. We make ourselves available to service loans, and have 375 outlets throughout the state. Most of these are in the major metropolitan areas.

367 SEN. KENNEMER: What level of safety and expertise do the credit unions have? Will this compromise the safety of the program?

385 MANGIS: Introduces FRANK WALLACE, OREGON DEPARTMENT OF VETERANS' AFFAIRS.

400 WALLACE: Safeguards include the requirement that the contractors must be an approved FHA lender and a seller in the secondary market.

409 CHAIR DWYER: Do credit unions meet those standards?

412 WALLACE: If they do, they can participate.

420 SEN. KENNEMER: Would this increase charges to ODVA?

TAPE 25, SIDE A

011 WALLACE: No. All lenders are viewed the same.

014 SEN. DWYER: The banks are concerned they are going to have to share. Is this a "turf" issue?

WALLACE: I suppose that's correct.

024 SEN. ADAMS: Declares a potential conflict of interest.

028 CHAIR DWYER: So noted.

032 SEN. CEASE: What is the size of the fee in one of these transactions?

034 WALLACE: The fee we pay the lenders for origination of the loan is 2% of the mortgage amount.

SEN. CEASE: How much work do they do for that?

WALLACE: Describes tasks performed.

050 MANGIS: Lenders don't make a lot of money on these loans, and there's not a big demand for them right now.

057 CHAIR DWYER: This bill's impact is not going to be earth-shattering?

060 MANGIS: No. Goes on to mention several factors limiting the number and scope of VA home loans.

081 STEVE RODEMAN, OREGON CREDIT UNION LEAGUE: Introduces TERESA LEWIS, FEDERAL METALS CENTRAL CREDIT UNION. Continuing, Rodeman says that

credit unions would have to meet the same standards as the banks to qualify for the program.

096 CHAIR DWYER: How many credit unions are certified to handle this program?

099 LEWIS: Approximately 25 are certified to sell on the secondary market.

105 CHAIR DWYER: So the good of this bill is that it allows one of your members to get a loan for a piece of property.

115 LEWIS: Yes.

119 CHAIR DWYER: Have you had any demand for this service?

123 LEWIS: Yes. When ODVA first set up the program, we had members inquiring about it. My credit union was involved in setting up the

program and we are certified to handle these loans, but we are not able to participate.

137 SEN. CEASE: What kinds of institutions currently offer this service?

142 WALLACE: Banks, savings and loan associations, or mortgage banking bankers. Most of these signed on when the program started. Offered a

clarification on the 2% fee.

(Tape 24, Side A) SB 449 - ALLOWS DIRECTOR OF VETERANS' AFFAIRS TO ENTER INTO CONTRACTS WITH CREDIT UNIONS FOR PROCESSING AND SERVICING OF VETERAN' FARM AND HOME LOANS - WORK SESSION

163 MOTION: SEN. JOLIN moves SB 449 to floor with a Do Pass recommendation.

169 SEN. ADAMS: Declares a potential conflict of interest as the president of a financial institution.

172 CHAIR DWYER: Conflict so noted.

VOTE: The measure passes 5-0. SEN. CEASE will carry.

(Tape 24, Side A) SB 444 - PROHIBITS REQUIRING PERSON WRITING CHECK OR SHARE DRAFT TO DISCLOSE CREDIT CARD NUMBER OR EXPIRATION DATE - PUBLIC HEARING Witnesses: Timothy Woods, Oregon Department of Justice Terry Leggart, Oregon Department of Justice Frank Brawner, Oregon Bankers Association John Stubenvoll, Oregon State Public Interest Research Group

040 TIMOTHY WOODS, OREGON DEPARTMENT OF JUSTICE: Introduces TERRY LEGGART, OREGON DEPARTMENT OF JUSTICE. Continuing, Woods states that there is a

fiscal impact for the Department of Justice. (EXHIBIT A). We estimate there would be a fiscal impact of .3 FTE. If the Legislature is serious about this bill, we ask that they fund us for the work they are asking us to do. If we are funded, we would start with education, being very aggressive in that educational process. If the businesses didn't get the message, we would put them on notice. Finally, we would take action. We will remain neutral, but there is a fiscal impact.

081 SEN. JOLIN: The price tag from the Fiscal Office is less than that given us by Mr. Woods.

091 FRANK BRAUNER, OREGON BANKERS ASSOCIATION: We support SB 444. The majority of credit card fraud happens over the phone. We don't feel

consumers should give their credit card number to anyone. We don't know of any occasions where fraud has occurred by writing a credit card number on a check.

110 VICE-CHAIR KENNEMER: The requester of this bill had it happen to him.

113 BRAUNER: For the record, it is our understanding that the bank would not be the responsible party in the case there is a problem. I believe

the legislative intent will bear this out so I don't feel we need to amend it here today.

148 VICE-CHAIR KENNEMER: Why do merchants want to put credit card numbers on a check?

153 BRAUNER: It used to be required for identification purposes. We want to protect ourselves from loss. Under certain circumstances a merchant

can collect a bad check amount from a credit card if he has the number.

179 SEN. JOLIN: Inquires about the differences between debit cards and check guarantee cards.

184 BRAUNER: Ultimately there will be no difference. You will have one card to do all of it.

210 JOHN STUBENVOLL, OREGON STATE PUBLIC INTEREST RESEARCH GROUP: OSPIRG supports this bill. We believe this bill fits into an overall

conversation about a consumer privacy issues. There are at least ten states that have similar laws.

243 SEN. JOLIN: What sort of problems have those states had with the legislation?

246 STUBENVOLL: There have been no problems that we know of, and the laws appear to be working out very well.

253 VICE-CHAIR KENNEMER: The requester of the bill could not make it today. Directs Tim Woods to work with the Committee Administrator to deal with the fiscal impact. Asks the Committee's pleasure, whether to hold it

over or pass it out of committee.

260 SEN. JOLIN: The fiscal impact is less than Mr. Woods is suggesting. If we move it out, the dollars must be looked at.

269 SEN. CEASE: It doesn't have a second referral. If we can get support on the floor and send it to the House, they would see that support when it got to Ways and Means.

(Tape 24, Side A) SB 444 - PROHIBITS REQUIRING PERSON WRITING CHECK OR SHARE DRAFT TO DISCLOSE CREDIT CARD NUMBER OR EXPIRATION DATE - WORK SESSION

287 MOTION: SEN. CEASE moves SB 444 to the floor with a Do Pass recommendation.

VOTE: The measure passes 4-0, Sen. Dwyer excused.

(Tape 25, Side A) SB 390 - MODIFIES PROCEDURES CONCERNING MANUFACTURED DWELLING AND FLOATING HOME SPACE TENANTS OBJECTING TO SUBSTANTIAL MODIFICATION OF RENTAL AGREEMENT - WORK SESSION SB 391 - MODIFIES TERMINATION OF TENANCY OF RENTAL SPACE FOR MANUFACTURED DWELLINGS, RESIDENTIAL VEHICLES AND FLOATING HOMES -WORK SESSION Witnesses: Frank Burleson, Greenway Tenants Association Brad Wilder, Oregon Housing and Community Services Department Sally Harrington, Commonwealth Property Management Chuck Corrigan, Manufactured Housing Communities of Oregon David Nebel, Oregon Legal Services Ardyth Badger, Oregon State Tenants Association

187 SEN. JOLIN: We sat down with the groups to address the issues around these bills. The issues are not necessarily resolved, but we should go

forward. Both measures have a subsequent referral to Judiciary. None of us have a total grasp of all the issues involved here and I think we need Judiciary's expertise.

219 CHERIE COPELAND, COMMITTEE ADMINISTRATOR: SB 391 in its original form had three sections, one of which, section 2, was basically the same as

SB 390. There are proposed amendments that delete section 2 (EXHIBITS D and E). Section 1 deals with the problems of fixed-term leases. These leases allow landlords to tell tenants to leave at the end of the lease. The original proposal was to turn a fixed-term lease into month-to-month tenancy at the end of the lease until a new agreement was reached.

Month-to-month tenancy is essentially perpetual in mobile home Landlord-Tenant Law. Historical legislative intent is for termination to only be for cause. The practical effect of the fixed-term lease is to get around that intent.

The new section 2 of SB 391 deals with split billing. The landlord separates out the cost of the utilities and presents the tenant with two bills. This language would ensure the landlord could not charge more than the cost of the utilities.

297 SEN. JOLIN: SB 391-1 is basically the long term leasing and split billing.

309 COPELAND: That's correct. The park owners are not happy with that language and would like it to go away. There is also additional

material from the park owners they wished you to see for this hearing (EXHIBIT G). SB 390 amendments do reflect precisely what was sent to counsel. It was not by unanimous consent by any means, but the proposed amendments address the concerns of both parties. Section 1 of the proposed amendments is already in statute and provides for arbitration and process mediation in mobile home parks. We still require 51% tenants' objection to proposed rule changes.

345 SEN. KENNEMER: Someone on extended vacation would still count as occupied?

349 COPELAND: Yes. 51% have 30 days to object in writing, and then the change goes into effect after 30 days. A total of 60 days; 30 days to

object and 30 days later the change would go into effect. Notice of the proposed changes will be by first class mail.

379 SEN. JOLIN: How does this differ to the current law?

382 COPELAND: Notice can be given in person or by mail, at the landlord's discretion. Tenants may use petition format to object. Proxies are not

allowed unless the tenant has a disability that would keep them from responding in writing. The landlords strongly object to the use of proxy. This was a compromise.

402 CHAIR DWYER: How under current law is proxy used?

COPELAND: I'm not sure. Frank Burleson is here and he is familiar with the procedure.

420 CHAIR DWYER: Calls Frank Burleson to answer questions. How do you get a proxy for people when something comes up?

442 FRANK BURLESON, GREENWAY TENANTS ASSOCIATION: You have to get it ahead of time. We had a lawyer draw up a limited power of attorney assigning

proxy to a steering committee or an individual.

TAPE 24, SIDE B

032 CHAIR DWYER: What this does is extend the notification period to thirty days, requires notification by mail, that they respond in writing if

they object, and provides a form to be sent to respond. In order for you to influence a rule change, what would you have to do?

042 SEN. JOLIN: This would prohibit proxy except for disability. It would allow petitioning. There are improvements in notification.

053 BURLESON: Expresses sharp exception to the definition of the word "occupied" and the provisions of subsection 7. Feels it sets up a

double jeopardy situation. [QUOTE] "Except for those two places we would accept, unhappily, the provisions that are being extended in this amendment."

068 SEN. JOLIN: If I sign away a proxy how do I know you're going to vote as I want you to?

074 BURLESON: You don't know. There has to be a trusting

relationship.

080 SEN. JOLIN: My concern is that this could be abused. What we're trying to do is offer you the best protection under the law.

095 SEN. KENNEMER: You don't object to doing away with the proxy? This was a major concern of yours at one point. I agree with Sen. Jolin; this

could be abused.

099 BURLESON: We can live with that.

103 SEN. CEASE: Talk to me about your concerns with the definition of "occupied."

113 BURLESON: We would like to eliminate the "snowbirds" and the hospitalized from the definition of occupied. We have concerns about

the reliability of notification procedures. They also miss out on the intra-tenant discussions of the issues during the 30-day objection period.

136 CHAIR DWYER: If people feel they are being treated unfairly, they will respond. What I'm concerned about is who is counting the objections and where are the responses going? Is the landlord counting the ballots?

154 BURLESON: There is not now any provision.

168 COPELAND: Even though there is no provision, how is it indeed done? 173 BRAD WILDER, MOBILE HOME PARK OMBUDSMAN, OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT: The delivery of signatures and petitions have not

been problems thus far. Tenants are advised to take a witness and note the time and date you deliver it.

185 CHAIR DWYER: We're talking about postal notification. How is someone on vacation or in the hospital going to be sure the landlord has the

required votes? Should they know?

WILDER: Yes they should, and that is an area that we should be concerned about.

CHAIR DWYER: Then we better devise a way for them to know.

195 SALLY HARRINGTON, COMMONWEALTH PROPERTY MANAGEMENT: We manage Greenway Mobile Home Park. Offers clarification of rule changes at Greenway.

210 CHAIR DWYER: Let's deal with the issue of notice. Who

counts the ballots? Should we send them to the ombudsman? Should he count the

ballots and notify you?

217 HARRINGTON: That may be the way to do it. Previously the tenants have notified us.

220 SEN. KENNEMER: We have to be careful not to make a bad situation worse by making it too complicated. Have there been complaints of fraud, Mr.

Wilder?

239 WILDER: Yes, there has been one.

244 CHAIR DWYER: There does have to be some oversight.

249 SEN. KENNEMER: There does need to be a way for those not there to be able to object.

256 SEN. CEASE: If you allowed more leeway with the proxy, how much abuse do you think there would be?

273 HARRINGTON: Expresses concern with the potential for abuse of the proxy vote.

283 SEN. KENNEMER: This is a glitch. How many people may be absent in any given thirty-day period?

292 WILDER: I couldn't even guess.

305 CHAIR DWYER: This has a subsequent referral to Judiciary. They may be better equipped to deal with the technical issues than we are.

310 SEN. ADAMS: I would want more information before I'm comfortable with making a decision.

318 SEN. CEASE: Assuming we have the provisions for 51% and mediation in here, what happens as a result of that?

327 WILDER: Once the signatures are gathered, the rule changes are blocked. If the landlord chose to negotiate, either party could sit down and

mediate. This has happened in more than one case.

347 SEN. CEASE: How long could you block the situation?

350 WILDER: The proposed changes would be blocked forever.

355 SEN. CEASE: So 51% is basically a veto?

WILDER: Yes.

369 COPELAND: SB 390-1 amendments have a clause that would allow the "grandfathering" of activities the tenant is involved in if there is a

rule change, if changing that rule would substantially harm the tenant.

Describes the format of the notification form contained in the bill, and describes where the various topics of discussion are found in the -1 amendments.

TAPE 25, SIDE B

013 SEN. JOLIN: We are going to include a copy of the notice in the rental agreement as well?

019 COPELAND: Yes. We want to make sure that people clearly see the notice. There is a provision that adds three days to the response time

to allow for postal delivery; this is standard language. There is also an emergency clause at the request of the tenants. They are concerned that there would be a rush of new rules proposed before implementation.

035 SEN. KENNEMER: Section 1 (4) is the grandfather clause? We haven't dealt with that publicly yet. Is there anyone who wants to address that issue?

041 CHUCK CORRIGAN, COUNSEL FOR MANUFACTURED HOUSING COMMUNITIES OF OREGON: We are against that language not because we want to cause tenants harm, but because it's pretty broad, vague and subjective language. There is

already a fairness standard at work. Adding a substantial harm standard would confuse the issue much worse.

060 SEN. KENNEMER: Under existing language, would I be allowed to keep a pet if the rules of the park changed to forbid pets? You're saying

there's no need for a grandfather clause and I'm trying to see if your argument holds water.

064 CORRIGAN: There is no case law that answers that question. Currently the factfinder would decide whether the rule was fair. Under the new

bill, they would also have to decide if there was substantial harm. We maintain that's an additional, almost identical standard and unnecessary.

076 SEN. JOLIN: If I had a business in a park and it had always been okay, could I be compelled to get rid of it because of a rule change? That

would be substantial harm and I don't think the current statute covers that.

085 CORRIGAN: I don't agree.

090 SEN. JOLIN: I can see where management's view of fair could differ significantly from a tenant's view of fair. 100 CORRIGAN: I understand your point and I'm afraid we're going to have to agree to disagree.

102 SEN. JOLIN: This has to be policy for the whole state. I think there could be a situation where substantial harm could be done to a tenant in the name of fairness.

120 DAVID NEBEL, OREGON LEGAL SERVICES: Mr. Corrigan's example of fairness about getting rid of a dog or being evicted assumes that everyone is

willing to risk their home for their dog. A tenant would be in an iffy position in that case.

136 CORRIGAN: I don't see how a substantial harm test would be used any differently than a fairness test.

142 SEN. JOLIN: Invites ARDYTH BADGER, OREGON STATE TENANTS ASSOCIATION to answer questions. Have you seen the amendments to SB 390 and SB 391?

164 BADGER: Yes I have. I was surprised by the amendments to 391. This used to be three separate issues. They somewhat confuse me. The new

section on split billing was inserted at the request of the landlords and my question is why was that amendment not put in SB 390?

207 SEN. JOLIN: I felt the 51% issues needed to be in a separate bill, and the long-term rental agreement issue in a separate bill as well.

226 COPELAND: The tenants did not object to the split billing issue.

228 SEN. JOLIN: There was a potential for a bomb if we combined all of the issues in one bill.

241 BADGER: The one issue in 390 should be the 51% issue. The one issue in 391 should be fixed-term lease. This (split billing) just muddies the

water in either bill.

247 SEN. JOLIN: I would like to make a recommendation. There are subsequent referrals of these bills to Judiciary. There are folks and

legal counsel on that committee better prepared to deal with this issue. We have separated the two primary issues. I don't see total agreement on these issues.

295 MOTION: SEN. JOLIN moves the 390-1 amendments.

305 CHAIR DWYER: Hearing no objections, SO ORDERED.

310 MOTION: SEN. JOLIN moves SB 390 as amended to Judiciary Committee by prior referral with a Do Pass recommendation.

316 SEN. CEASE: We should include a cover letter to explain a couple of the issues that are problems.

327 SEN. JOLIN: I would accept that as a friendly amendment.

330 SEN. KENNEMER: I think Sen. Jolin's comments regarding the Judiciary Committee are accurate. These are tough issues and I don't want to

dodge the issue. I can't support this motion because it doesn't represent our best effort. This is not an effort to stop the motion. I would like to see these issues better addressed.

335 SEN. ADAMS: Echoes Sen. Kennemer's remarks.

343 CHAIR DWYER: [QUOTE] "If we think we're ever going to get a product out of here that's perfect, that everybody can agree to then you're in some kind of a never-never land. You're not in this process. I'm going to

move this bill. Your objections are well noted."

VOTE: The measure passes 3-2. NOT CONCURRING: SEN. ADAMS, SEN. KENNEMER

360 MOTION: SEN. JOLIN moves the -1 amendments to SB 391.

366 CHAIR DWYER: Sen. Cease would also like a cover letter explaining the issues and how we've dealt with them to go to the Judiciary Committee as part of the referral. I would agree that it accompany them. Hearing no

objections, SO ORDERED.

373 SEN. KENNEMER: This does not represent our best efforts. Primary concern is the fixed-term leases. Arbitrarily turning them over into

month-to-month tenancy is not what I would like to see. Had hoped to have additional amendments, but ran out of time. They would have made cause a bit more specific and easier to deal with.

390 CHAIR DWYER: I would hope you participate in the Judiciary so that your concerns can be addressed and you can support this on the floor. Your

objections are duly noted.

VOTE: The measure passes, 3-2. NOT CONCURRING: SEN. ADAMS, SEN. KENNEMER

410 CHAIR DWYER: Adjourned the meeting at 5:04 p.m.

Submitted by:

Reviewed by:

Willie Tiffany
Administrator

Richard Day-Reynolds Assistant

EXHIBIT LOG:

A - Testimony on SB 444 - Timothy Wood - 1 page B - Testimony on SB
444 - Jon Stubenvoll - 3 pages C - Testimony on SB 2021 - Steve Rodeman
- 1 page D - Amendments to SB 391 - Staff - 4 pages E - Hand-engrossed
SB 391 - Staff - 3 pages F - Amendments to SB 390 - Staff - 7 pages G -
Testimony on SB 391 - Chuck Corrigan - 2 pages H - Testimony on SB 390
- Chuck Corrigan - 3 pages I - Amendments to SB 390 - Chuck corrigan -
3 pages J - Witness Registration - Staff - 2 pages