

House Committee on Business and Consumer Affairs Subcommittee No. 2
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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.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS SUBCOMMITTEE NO. 2

March 21, 1991
P.M.

Hearing Room H 170 3:00
Tapes 3 - 4

MEMBERS PRESENT: Rep. Beverly Stein, Chair Rep. Carolyn Oakley Rep. Hedy Rijken Rep. John Schoon

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2007 WS HB 2212 WS HB 2937 PH HB 2206 PH HB 2207 PH

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TAPE 3, SIDE A

010 CHAIR STEIN calls the meeting to order at 3:06 p.m. and opens the work session on HB 2007.

HB 2007 - REQUIRES RECORD CLUB OR BOOK CLUB TO ALLOW CUSTOMER TO VOID CONTRACT WITH RECORD CLUB OR BOOK CLUB IF CUSTOMER PAYS 10 PERCENT OF AMOUNT DUE ON CONTRACT. Witnesses: David Crowell, Legislative Aide to Rep. Campbell Ray Gribling, DeHart and Darr Associates

012 DAVID CROWELL, Legislative Aide to Rep. Campbell, submits and reviews proposed amendment to HB 2007 (EXHIBIT A): >1. deletes the two subsections in the bill that refer to the nullification of the contract and the 10 percent buyout. >2. would require the parent or guardian to also sign on the contract. >3. would prohibit the clubs from requiring the consumer to return the card in lieu of receiving the merchandise. >4. would require the company to reciprocate the right to cancel membership to the consumer, allowing the consumer to cancel the membership (EXHIBIT B).

058 RAY GRIBLING, DeHart and Darr Associates, Washington, D.C.: The Chair asked about sanctions against publishers who do not follow the FTC rules. Sanctions are up to \$10,000 for each occurrence. Once the courts have made a determination, those same sanctions apply, up to \$10,000 for each occurrence.

079 CHAIR STEIN: Would it be \$10,000 per day?

080 MR. GRIBLING: Yes. The largest fine was against Double Day for \$100,000. You also asked about the average cost of billing. If they had signed up to buy 6 records and had only bought two, the records would be at a standard price times the four they had not bought. You also made reference to books which would vary in price. They take the

average. If you agreed to buy six and had purchased two, you would be billed on the average of four books. The member would then have the option of going back and selecting books to be delivered. You are going to pay the bill and may as well get some merchandise.

Mr. Crowell talked about the negative option plans and if you don't respond they send the book or record. That is true. You have 10 days to respond. If you don't respond you will receive the book. You may return the selection at their expense. The customer is not at risk. It was interesting to hear comments that these ads were a lure to young folks. I am also told the major publishers have handwriting experts on staff to determine if a child is ordering. They have some safeguard to check to see who is ordering. We recognize some people do not speak our language who do not know what they have gotten into. If you sign a contract, you are expected to meet your obligations. People should be responsible for their own actions. It is difficult to get out from under a contract, but we are not taking your life savings.

136 REP. SCHOON: Are there any life contracts?

138 MR. GRIBLING: Some are over a period of two years, most are over a period of one year. I don't know of any that say this is a lifetime. You can cancel at any time. If you haven't ordered what you contracted for, they will expect you to pay the balance due on contract. After you have met your obligation, you are free to cancel at any time.

160 REP. STEIN: Would you comment on #4 of the amendments?

149 MR. GRIBLING: When I read Item 4, it says they can cancel any membership. I am not sure they are talking about canceling or refusing membership. I would submit that if you have an account that is a known bad debt, you will not accept a contract from them.

173 REP. OAKLEY: How would you respond to allowing the customer the same cancellation privilege?

186 MR. GRIBLING: The same privilege exists to the customer, except if you have signed a contract, you must fulfill contract.

194 CHAIR STEIN closes the work session on HB 2007 and opens the work session on HB 2212.

HB 2212 - LIMITS CLAIMS RESPONSIBILITY OF OREGON LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION TO OREGON RESIDENTS AND CERTAIN NONRESIDENTS. Witness: Lewis Littlehales, Dept. of Insurance and Finance

212 LEWIS LITTLEHALES, Program Executive, Dept. of Insurance and Finance, reviews the department's proposed amendments to HB 2212 (SEE EXHIBIT H OF SUBCOMMITTEE NO. 2 MINUTES DATED MARCH 19, 1991).

264 MOTION: REP. SCHOON moves that the Subcommittee recommend to the full committee that the proposed amendments dated March 19 be adopted.

VOTE: CHAIR STEIN, hearing no objection to the motion, declares the motion

PASSED.

272 MOTION: REP. SCHOON moves that the Subcommittee recommend to the full committee that HB 2212, as to be amended, be sent to the Floor with a DO PASS recommendation.

283 VOTE: In a roll call vote, all members are present and vote AYE.

288 CHAIR STEIN declares the motion PASSED.

309 CHAIR STEIN opens the public hearing on HB 2207.

HB 2207 - AUTHORIZES DIRECTOR OF DEPARTMENT OF INSURANCE AND FINANCE TO SET CERTAIN FEES BY RULE. Witness: Laurie Skillman, Dept. of Insurance and Finance

311 TERRY CONNOLLY, Administrator, reviews the Preliminary Staff Measure Summary (EXHIBIT C).

329 LAURIE SKILLMAN, Deputy Administrator, Division of Finance and Corporate Securities, Department of Insurance and Finance, submits and reads a prepared statement in support of HB 2207 (EXHIBIT D).

407 Issues discussed: >Need for flexibility in setting fees versus waiting for legislative session. >Concern for not maintaining a statutory maximum. >Process in getting approval for fees.

TAPE 4, SIDE A

043 CHAIR STEIN closes the public hearing on HB 2207 and opens the public hearing on HB 2206.

HB 2006 - REQUIRES PERSONS APPLYING FOR REGISTRATION AS COLLECTION AGENCY BUSINESS TO FURNISH \$10,000 SURETY BOND. Witnesses: Sharlyn Raymet, Dept. of Insurance and Finance Jim Markee, Oregon Collectors Association Ralph Hammack, Oregon Collectors Association Steve Ruso, Vanguard Investment Company

047 MR. CONNOLLY reviews the Preliminary Staff Measure Summary (EXHIBIT E).

The Legislative Fiscal Analysis is hereby made a part of these minutes (EXHIBIT F).

055 SHARLYN RAYMET, Supervising Examiner of the Division of Finance and Corporate Securities, Department of Insurance and Finance, submits and reads a prepared statement in support of HB 2206 (EXHIBIT G).

Issues discussed: >History of program and bonding requirement. >Reduction in workload. >Views of Department of Justice.

112 JIM MARKEE, Oregon Collectors Association: I have represented the Collectors Association for over 15 years and was representing them when we had a surety bond and other requirements. We have a membership of 85 to 90. The number of collection agencies in Oregon in the late 1970's and early 80's was just over 100. When we went through sunset review in the early 1980's the decision was to deregulate the industry and remove the bonding and testing requirements, etc. and get into a registration only program. The reason was this regulation was a business-to-business type of regulation. They are not working for the consumer, but are working for other businesses. The consumer is protected through the Fair Debt Collection Practices Act and consumers have the right of private actions if they are aggrieved. ORS chapter 697 is a mechanism to protect other businesses. The reasons in deregulating was the state shouldn't be involved in regulating one business to another. We have seen a doubling of the agencies in Oregon and unfortunately some have little or no financial responsibility. It has created a certain degree of problem with the regulatory agency and with businesses trying to do business with collection agencies.

We don't like to see that happen in the industry and when we met with the agency and they said they wanted to go back to bonding, we supported him. I believe it will be good for industry.

156 RALPH HAMMACK: I believe there have been few problems with members of our association and they are rapidly taken care of when they do occur. We support this legislation.

171 REP. SCHOON: Can the department or Attorney General go against the

bond or do they have to have a court decision?

175 MR. MARKEE: It is my understanding from reading the bill, the bond would run to the state and the aggrieved business, the client of the collection agency, would have a right to file a claim against the bond. For any violation of chapter 697, if there were more than one party filing a claim and there wasn't enough money to cover all claims, the aggrieved party would have the right to go to the collection agency.

181 REP. OAKLEY: What is the price of a surety bond?

191 MR. MARKEE: The bond market fluctuates; it averages about \$10/\$1000. At some periods they are somewhat difficult to get. Our Oregon association is associated with the American association. They have a bonding program available to their members. They will bond our members for around \$130 a year. It is our hope that because the rate is so reasonable it might drive some others into our association and help get them educated.

217 REP. STEIN: It looks as though the bond can only be acted on pursuant to a court judgment. Is that how you responded?

216 MR. MARKEE: That is not how I responded and that is not how I read the bill, but I could be wrong.

258 REP. SCHOON: Is it your intent that the state be able to go against the bond?

259 MR. MARKEE: I believe that was the intent of the bill and that is what we were in support of. If the words don't say that, we can fix it.

265 CHAIR STEIN: We will need to check to see how the bonds work.

272 STEVE RUSO, Owner, Vanguard Investment Company: I am a member of the Oregon Collectors Association. When I first heard there was a proposal for the \$10,000 bond, I endorse having the bond back again. I tried long and hard to try to prevent sun setting of the original bond. Within approximately six months after the Collection Agency rules on bonding were sunset, I had inquiries from others who knew someone who had collected money that were no longer available to the business. We eventually got the matter resolved, but it took about six months to have somebody get mixed up on whose money was whose. We have a very good regulatory rule regarding accounting and procedures on handling money of our clients. It appeared when we cut out the bonding aspect and other regulatory parts we lost quality in the industry.

We would like to see the \$10,000 bond. I raised the question about 2 (b) and I hope it can be cleared up in the rules. In the original intent we did make the individual directly responsible for the business, the company. That might be one way to pursue that. We accept accounts from individuals, businesses, corporations, doctors offices. We are in a business climate and we should be as bonded as possible.

344 CHAIR STEIN closes the public hearing on HB 2206 and opens the public hearing on HB 2937.

HB 2937 - SPECIFIES PROCEDURES FOR LAUNDERERS AND DRY CLEANERS TO DISPOSE OF UNCLAIMED PROPERTY. Witnesses: John Craig, Oregon Dry Cleaners Association David Crowell, Legislative Aide to Rep. Campbell

348 MR. CONNOLLY reviews the Preliminary Staff Measure Summary (EXHIBIT H).

368 JOHN CRAIG, owner and operator of Craig's Cleaners in LaGrande and President, Oregon Dry Cleaners Association, submits and reads a prepared statement in support of HB 2937 (EXHIBIT I).

