

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on February 12, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Dan Williams- excused

Committee staff present:

Jill Wolters, Revisor of Statutes

Diana Lee, Revisor of Statutes

Jerry Ann Donaldson, Kansas Legislative Research Department

Cindy O'Neal, Secretary

Conferees appearing before the committee:

Representative Jeff Jack

Judge Robert Fleming, 11th Judicial District, Labette County

Doug Smith, Credit Attorneys Association

Stan Masters, Kansas Self-storage Owner's Association

Stan Stanton, Kansas Self-Storage Owner's Association

John Federico, Kansas Self-Storage Owner's Association

HB 2617 - allowing land surveyors to enter upon property for a land survey, not considered trespass

Dina Fisk provided the committee with some suggested amendments to address concerns of the committee. (Attachment 1)

Representative Patterson made the motion to report HB 2617 favorably for passage. Representative Jack seconded the motion.

Representative Patterson made a substitute motion to adopt the suggested amendments. Representative Jack seconded the motion. The motion carried.

Representative Jack made the motion to report HB 2617 favorably for passage, as amended. Representative Patterson seconded the motion. The motion carried.

The hearing on **HB 2655 - civil procedure for limited actions; requested admissions; judicial discretion to allow withdrawal of amendments of admission**, was opened.

Representative Jeff Jack requested the bill to provide judges with the same discretion in Chapter 61 cases as they have in Chapter 60 cases, when a party, through ignorance or other excusable neglect, fails to file answers to requests for admissions. The court could allow the party to withdraw or amend his admission when it will serve the presentation of the case on its merits and there is no prejudice to the other party. (Attachment 2)

Judge Robert Fleming, 11th Judicial District, Labette County, estimated that in Chapter 61 cases 75-80 percent of defendants in limited action cases are pro se and don't really know the way the courts work, as opposed to Chapter 60 cases where both parties are represented by counsel who know the law. (Attachment 3) He requested an amendment which would grant the trial court the same statutory discretion that is now exercised in a Chapter 60 action.

Doug Smith, Credit Attorneys Association, appeared as an opponent of the bill because it would result in more litigation and trials by surprise. (Attachment 4)

The hearings on **HB 2655** was closed.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on February 12, 2004 in Room 313-S of the Capitol.

The hearing on **HB 2738 - providing authority for self-storage operators to collect late fees**, was opened.

Stan Masters, Kansas Self-storage Owner's Association, explained that the bill would give authority to the owner of a self-storage facility the right to impose a late fee on someone who fails to pay rent when it's due and would set that amount at \$20 per month or 20% of the monthly rental fee. (Attachment 5)

The committee was concerned as to why there would ever be a 20% monthly rental fee charged, when they could collect a \$20 late fee, and be reimbursed for their expenses if a lien needed to be filed. They felt that self-storage facilities currently have the ability to include in their contract a late fee and was not sure that it needed to be in statute.

Stan Stanton, Kansas Self-Storage Owner's Association, stated that several other states have similar fees regarding late charges. The proposed bill would also allow them to collect the cost of lien enforcement expenses. (Attachment 6)

The Chairman requested a copy of a blank rental storage contact.

John Federico, Kansas Self-Storage Owner's Association, appeared as a proponent of the bill. He stated that the 20% late fee charge would be only in instances where someone has continually not paid their monthly storage fee.

The hearing on **HB 2738** was closed.