

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Michael O'Neal at 3:30 p.m. on January 21, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Ward Loyd- excused
Representative Dale Swenson- excused
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:

Kathy Olsen, Kansas Bankers Association
Rick Fleming, Office of Kansas Securities Commissioner
Chris Biggs, Kansas Securities Commissioner
Ed Cross, Kansas Independent Oil & Gas Association
Jim Clark, Kansas Bar Association
Roger Walter, Kansas Bar Association

The committee received request for bill introductions.

Kathy Olsen, Kansas Bankers Association, requested a bill which would correct printing errors in the Uniform Commercial Code, Revised Article 9. (Attachment 1)

Representative Patterson made the motion to have the request introduced as a committee bill. Representative Long-Mast seconded the motion. The motion carried.

Representative Ward requested a bill which would modify the landlord tenant act allowing the tenant ten days after a judgement has been reached for the removal of property. He made the motion to have the request introduced as a committee bill. Representative Patterson seconded the motion. The motion carried.

Representative Davis requested several bills:

1. Extend the terms of the Court of Appeals from four years to six.
2. Increase the hourly rate from \$50 to \$80 for attorneys doing indigent defense work
3. Uniform Interstate Enforcement of Domestic Violence Protection Act
4. Amend K.S.A. 12-1617 (e), cleanup the notice provision from ten days to forty days

Representative Davis made the motion to have the requests introduced as committee bills. Representative Patterson seconded the motion. The motion carried.

Representative O'Neal received a bill request to amend to the worthless check statute concerning mailing requirements. Amendments had been made to K.S.A. 60-2610 but 60-2611 was not amended and two other changes did not get amended regarding first class and restricted mail. Representative Patterson made the motion to have the request introduced as a committee bill. Representative Long-Mast seconded the motion. The motion carried.

Hearings on **HB 2347- Uniform Securities Act**, were reopened.

Rick Fleming, Office of Kansas Securities Commissioner, remarked that the balloon (Attachment 2) was the amendments which were adopted by the Special Committee on Judiciary this past summer. It reflects some technical amendments, conforms **HB 2347** with SB 110, which was passed last year and addresses the compromise amendments between the National Conference of Commissioners on Uniform State Laws (NCCUSL), Kansas Department of Insurance and Office of Kansas Securities Commissioner.

Chris Biggs, Kansas Securities Commissioner, supported the interim committee balloon but had strong objections to variable annuities being taken out of the definition of securities. He informed the members that Oklahoma & Missouri had adopted the uniform act without variable annuities included. However, he urged

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on January 21, 2003 in Room 313-S of the Capitol.

the committee to not let the issue of variable annuities hold up the bill.

Chairman O'Neal asked if Mr. Biggs would like to request a bill be drafted including variable annuities in the definition of securities. Mr. Biggs responded he would. Representative Patterson made the motion to have a bill drafted. Representative Long-Mast seconded the motion. The motion carried.

He also suggested an amendment involving the statute of limitations for criminal offenses found in section 37 (b) on page 46 of the bill. It should be made clear that Chapter 21 tolling provisions apply to securities issues. (Attachment 3)

Ed Cross, Kansas Independent Oil & Gas Association, expressed concerns with K.S.A. 17-1262(a) being removed from the bill. After speaking with the Kansas Securities Commissioner, there has been the assurance that they will keep the exemption in through their rules and regulations. (Attachment 4)

Jim Clark, Kansas Bar Association appeared before the committee with a request for several amendments. (Attachment 5)

1. Delay the effective date by one year
2. Allow for the sale of a security to a person not a resident of the state would not be in violation of registration
3. Strike language on page 18 lines 25 thru 27
4. Issuer exams
5. Change civil statute of limitations
6. Include viatical investments as defined in the North American Securities Administrators Association Guidelines.

Rick Fleming opposed the majority of the Kansas Bar Associations proposed amendments.

- #1 change in effective date is fine
- #2 would create a loophole for registration
- #3 would cause different guidelines for each type of security filed
- #4 securities may not be sold through a broker firm
- #5 a change to the civil statute of limitations is not needed currently there is up to a five year period depending on the type of crime committee
- #6 the definition of viatical investments does need to be fixed but the committee should wait till they receive recommendations from NCCUSL

Kansas Bankers Association provided written testimony requesting an amendment which would change the definition of a broker-dealer to strike including banks. (Attachment 6)

Written testimony was provided from Waddell & Reed in favor of the uniform bill. (Attachment 7)

The hearings on **HB 2347** were closed.

The next committee meeting was scheduled for January 26, 2004.