

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on March 9, 2006 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Renaë Jefferies, Office of Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee:

Josh Bender, Legislative Director, Student Legislative Awareness Board, K.U.
James A. Schneider, Lawrence landlord
Ed Jaskinia, Associated Landlords of Kansas
Matt Hoy, Lawrence Apartment Association
Alicia Smiley, Property Management, Lawrence
Gary Hefley, Landlord, Wichita
Clark Lindstrom, Landlord, Wichita
Patrick DeLapp, Landlord
Gary Hefley, Wichita
Martin Moore
Louise Kirkpatrick, Housing and Credit Counseling, Inc.
Jeff K. Cooper, Attorney at Law
Bradley Dean Denney, Neodesha
Roger Mills, Richmond

Others attending:

See attached list.

The Chairman opened the hearing on **SB 380 - Amendments to the residential landlord and tenant act; inventory of premises, security deposit, automatic renewal classes.**

Staff gave a briefing on **SB 380** concerning the residential landlord and tenant act.

Josh Bender, Legislative Director for the University of Kansas Student Senate, testified as a proponent to **SB 380**. One of the primary concerns is the use of automatic renewal clauses within one year lease agreements. This abusive practice requires tenants to inform their landlord of their intention to vacate the rental unit at the end of the lease agreement otherwise the lease renews for another year. The renewal date can be arbitrarily set by the landlord. Most of the pre-determined lists contain provisions that make them non-inclusive and are therefore ineffective upon termination. Bargaining is not an available option when it comes to the pre-determined lists. **SB 380** allows for a pre-termination walkthrough of the rental unit, much like the initial inventory, in order to identify cleaning deficiencies caused by the resident (Attachment 1).

James A. Schneider, and his wife are “mom and pop” landlords in Lawrence and testified in opposition to **SB 380**. They had no objections to the general provisions and general ideas; however, they respectfully asked for consideration of several small modifications (Attachment 2).

Ed Jaskinia, Associated Landlords of Kansas, testified as an opponent to **SB 380**. This bill attempts to alter an extremely fair and time proven law, known as The Kansas Residential Landlord-Tenant Act. Kansas is the one state that has resisted changing the law to “fix” minor faults, knowing full well how “fixing” something can sometimes create unpleasant surprises. We have always opposed opening this law for minor problems and will continue to do so (Attachment 3).

Matthew H. Hoy, testified as an opponent on behalf of the Lawrence Apartments Association, Inc. which unanimously voted to oppose **SB 380**. This bill would make renting more expensive as landlords would likely have to increase their staff size in order to satisfy the onerous inspection provisions. Even in complexes of

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modest size, the pre-termination inspection scheduling would consume a substantial amount of staff time. **SB 380** is a statewide solution which would dramatically revise the Kansas Residential Landlord and Tenant Act. In analyzing tenant rental decisions, price is the most important element in a tenant's rental decision. This bill would result in sharp increases in both rent and security deposits for tenants. **SB 380** is a troubling attempt to revise well-settled law and, unfortunately, would likely increase litigation as landlords and tenants seek to understand and apply its provisions (Attachment 4).

Martin Moore, landlord, Lawrence, testified in opposition to **SB 380**. This bill unfairly penalizes 100% of Kansas landlords for the actions of a few. We aren't convinced the proposed pre-move out inspection would accomplish its intended effect. It is often impossible to accurately assess the condition of the apartment until it is completely vacant (Attachment 5).

Alicia Smiley, having been in property management for 13 years, testified as an opponent to **SB 380**. While every effort is made to conduct a move-in inspection, on occasion for whatever reason, a move-in is not conducted. In those instances a tenant who receives a property in good condition could cause extensive damage to a unit without consequence. The current law already protects the tenants with a move in and a move out inspection. Most landlords have written policies, agreed to by the tenant prior to move in, stating what the most common damage/cleaning items cost. The tenants know before hand the costs of damage or cleaning and, therefore, should have an idea of what the costs would be. They do not have to wait to see what the charges would be (Attachment 6).

Gary Hefley, landlord, Wichita, testified as an opponent to **SB 380**. This legislation would not be fair to landlords and would increase the costs of housing. Tenants want quality affordable housing. There are only two ways a landlord can recover money from a highly taxed business, and those are to raise rents or defer maintenance. Neither of these methods would work to enhance the quality or affordability of Kansas housing (Attachment 7).

Clark Lindstrom, certified property manager, testified in opposition to **SB 380**. The existing Landlord Tenant Act already provides for a proper balance of protection for both the landlord and tenant. This bill would be bad for the state's landlords and would not achieve what is sought to be accomplished for tenants (Attachment 8).

Patrick DeLapp, landlord, testified in opposition to **SB 380** as it would be bad law and would cause a lot more problems in renting homes (Attachment 9).

Written testimony in opposition to **SB 380** was distributed: Brandy Sutton, Attorney, Lawrence (Attachment 10) and Louise Kirkpatrick, Housing and Credit Counseling, Inc. (Attachment 11).

The Chairman closed the hearing on **SB 380**.

The Chairman continued the hearing on **SB 461: Workers compensation; preexisting condition, permanent partial general disability; supplemental functional disability compensation.**

Jeff Cooper, representing Kansas Trial Lawyers Association, testified in opposition of **SB 461**. The current law in workers compensation contains an incentive for employers to return workers to work by providing that an employer only pays functional impairment if accommodated work is provided. Those workers who are returned to work with limitations and disabilities are not on equal footing with other workers in the State of Kansas when it comes to competing for jobs. The injured workers who are returned to accommodated positions have restrictions and disabilities that would preclude them from going out in the open labor market and competing on equal footing with individuals who do not have limitations and disabilities. It is important to keep in mind that those limitations and disabilities are the result of the work-related injury suffered by the injured worker. This bill would remove the incentive to return injured workers to work by allowing employers to evade work disability by claiming the injured worker was not returned to work or accommodated work was eliminated due to "economic reasons"(Attachment 12).

Bradley Dean Denney, Neodesha, testified as an opponent to **SB 461**. Mr. Denney was injured on the job in

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2001 at Farmland Industry. Farmland's doctor estimated he had a 42% loss of the use of his body without considering the traumatic diabetes or the heart and kidney problems suffered because of the accident. He returned to work 5 ½ months after his terrible accident in a greatly accommodated job. Farmland denied much needed medical care seriously jeopardizing his life and health. The Division of Workers Compensation initiated an investigation into Farmland's apparent violation of the "fraud and abuse" provisions of the Kansas Workers Compensation Act. Since the investigation began, Farmland has resumed providing medical treatment, but thousands of dollars of medical bills remain unpaid and the investigation is still ongoing. This state already has taken away many benefits of the worker's compensation act that would make the original authors of the bill burn with anger. The bill no longer provides adequate protection to the workers that have made this state great (Attachment 13).

Written testimony was distributed in opposition to **SB 461**: Timothy Short, Attorney, Pittsburg, (Attachment 14).

The meeting adjourned at 11:00 a.m. The next meeting will be March 10, 2006.