

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m. ~~7:00~~ on March 24, 1983 in room 529-S of the Capitol.

All members were present except:

Sen. Hess - Excused

Committee staff present:

Bill Wolff, Legislative Research  
Bruce Kinzie, Revisor's Office

Conferees appearing before the committee:

Dick Brock, Kansas Insurance Department  
William Mitchell, Kansas Land Title Association  
Vera Sutton, Kansas Land Title Association  
Joe Jenkins, Chicago Title Insurance Company

The minutes of March 23 were approved.

The hearing began on HB 2447 relating to the conducting of a reasonable title search before the writing of title insurance policies. Dick Brock, Kansas Insurance Department, appeared in support of the bill. He said that the bill was introduced at the request of the Insurance Department and was the result of a two year study of title insurance conducted by the Insurance Commissioner. He said that due to the high level of competition between those who market title insurance, many times policies are issued without adequate search. He explained that most of the expense for premiums for title insurance is for the search and so when the search is not done as it should be, the purchaser does not get what he has paid for. He said this bill would impose statutory prohibition of issuing a title insurance policy unless reasonable search has been made. In answer to questions as to how the policy holder is damaged and why legislation should be needed to protect insurance companies from incompetency, Mr. Brock said that the damage to the holder occurs when the defect shows up that was not shown in the policy and that sometimes the company is not aware that a search has not been made.

William Mitchell, Kansas Land Title Association, gave testimony in support of HB 2447. He informed the committee that he had participated in the study conducted by the Insurance Commissioner and that those who had participated in the study unanimously endorsed the need for the bill. Sen. Karr asked what would be the penalty for not complying with the bill. Mr. Mitchell answered that the Insurance Commissioner would perhaps fine the company for unfair practice or the person who bought the insurance from the abstractor might file a suit against the person who conducted the search whereas now nothing happens when there is a failure to conduct a reasonable search. Sen. McCray asked if the passage of the bill would result in a premium increase, and Mr. Mitchell assured him that it would not. Sen. Feleciano asked how big this problem is and why an attempt is being made to legislate on the incompetency of someone when the problem could be solved by simply severing the relationship. Mr. Mitchell said that it is a small problem, but it might be several years before the incompetency was discovered.

Vera Sutton, President of the Kansas Land Title Association, gave testimony in support of HB 2447. She explained that the abstractor is required to carry insurance to protect him from error or omission and that the premium for this insurance is high and increases each year. This cost is ultimately passed on to the consumer. When premiums for the abstractors became due last fall, she received many complaints that the premiums had increased 25 to 50%. She began to research the problem and found that the premium is 44% higher than five years ago. This increase has been caused by the problem of improper search and examination. In answer to a question from Sen. Werts as to if the Board of Abstractors has authority over title policies, she said that it does not. Sen. McCray asked if this law would effect premiums. Mrs. Sutton answered that if it is not passed, the premiums will increase. She explained

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,

room 529-S, Statehouse, at 9:00 a.m./p.m. on March 24, 1983.

to Sen. Feleciano that the problem area is with the agents who work for abstract companies.

Joe Jenkins, Chicago Title Insurance Company, testified in support of HB 2447. He said that it would have no effect on premium rates. He said that there is always some search for title but that the agent may just go to the last deed of mortgage and not back to look for an easement which can cause problems.

The hearing on HB 2447 was concluded.

The hearing began on HB 2446 which would add as an unfair insurance trade practice rebates of title insurance rates. Dick Brock, Kansas Insurance Department, appeared in support of the bill. He said that it would bring title insurance in line with other types of insurance and would prevent the spread of controlled business. Sen. Werts asked if there is a penalty provision, and Mr. Brock said that there is.

Joe Jenkins, Chicago Title Insurance Company, gave testimony in support HB 2446 and stated that it puts title insurance under the auspices of the Insurance Commissioner where it should be instead of under the Board of Abstracters where it has been.

Sen. Feleciano made a motion to report HB 2446 favorably. Sen. Pomeroy seconded the motion. The motion carried.

Sen. Reilly made a motion to report HB 2447 favorably. Sen. Feleciano seconded the motion. The motion carried.

The next meeting will be held on March 25.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3-24-83	Marvin Umholtz	<del>Topoka</del> Topoka	KUML
"	Hayden St John	Topoka	Lantern Title of Topoka
"	Vin Sutton	Topoka	KLTA
"	John D Wheeler	Topoka	Columbian Natl Title
"	E. Dean Seccombe	KANSAS CITY, KS	GUARANTEE TITLE
"	Wh Russell	Hutches	KLTA
"	Tim Underwood	Topoka	KAR
"	Sherman A. Parks, Jr	Topoka	KCA