

Approved February 4, 1987  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at  
Chairperson

10:00 a.m./~~p.m.~~ on February 3, 1987 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Steineger, Talkington, and Winter.

Committee staff present:

Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Harold Shoaf, Associated Landlords of Kansas  
Bud Grant, Kansas Chamber of Commerce and Industry  
Matt Lynch, Kansas Judicial Council  
John Frieden, Kansas Society of Certified Public Accountants

Harold Shoaf, Associated Landlords of Kansas, requested a bill be introduced concerning fraud or cheating in obtaining accommodations. A copy of his handout is attached (See Attachment I). Following his explanation, Senator Hoferer made a motion to introduce the bill. Senator Talkington seconded the motion, and the motion carried.

Bud Grant, Kansas Chamber of Commerce and Industry, requested a bill be introduced concerning shoplifting. A copy of 1985 Senate Bill 44 is attached (See Attachment II). He explained the bill. Senator Talkington moved to introduce the bill. Senator Steineger seconded the motion, and the motion carried.

Matt Lynch, Kansas Judicial Council, requested a bill be introduced that expands the application of the Administrative Procedures Act. He explained the proposal to the committee. Senator Langworthy moved to introduce the bill. Senator Steineger seconded the motion, and the motion carried.

Senate Bill 25 - Limitations on liability of certified public accountants.

John Frieden, Kansas Society of Certified Public Accountants, testified he had visited with the bankers and the savings and loan people. The bankers have not formally taken a position on the bill. The changes in the bill are changes suggested by the savings and loan people. A copy of the proposed changes is attached (See Attachment III). He stated these changes will take care of a lot of objections previously had on the bill. The CPAs have no objection to the changes. Senator Talkington moved to adopt the proposed amendments. Senator Gaines seconded the motion, and the motion carried. Senator Burke moved to report the bill favorably as amended. Senator Gaines seconded the motion. Following committee discussion, the motion carried.

Senator Burke requested a bill be introduced to establish the equivalent of a municipal court of any county of 300,000 for purposes of endorsing their own resolutions pursuant to county home rule powers. Senator Burke moved to introduce the bill. Senator Langworthy seconded the motion, and the motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 3, 1987, 19   

Senate Bill 16 - Exemptions from legal process.

The chairman reviewed the bill. Following committee discussion, Senator Winter moved to amend the bill in subsection (b) of Section 3 by raising the dollar amount to \$1500. Senator Burke seconded the motion, and the motion carried. Senator Burke moved to amend the bill in subsection (e) by raising the dollar amount to \$7500. Senator Langworthy seconded the motion, and the motion carried. Senator Winter moved to report the bill favorably as amended. Senator Hoferer seconded the motion, and the motion carried.

Senate Bill 27 - Limiting liability of directors and officers of nonprofit organizations.

A copy of Section 501 of the Internal Revenue Code was distributed (See Attachment IV). The chairman reviewed the bill and committee discussion was held. Senator Gaines moved to amend the bill to include Sections 501(c)(3)(4)(5)(6) and (7) of the Internal Revenue Code. Senator Winter seconded the motion. With three voting in favor of the bill and four opposed, the motion failed. Senator Burke moved to report the bill favorably. Senator Feleciano seconded the motion, and the motion carried.

Senate Bill 28 - Limiting liability of volunteers of nonprofit organizations.

Senator Talkington moved to report the bill favorably. Senator Winter seconded the motion, and the motion carried.

The meeting adjourned.

A copy of the guest list is attached (See Attachment V).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-3-87

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>David Lloyd</i>	<i>4545 W 21<sup>st</sup> St Topoka</i>	<i>assoc Landlords of Kansas</i>
<i>Dan [unclear] ✓</i>	<i>Topoka</i>	<i>KCCI</i>
<i>T.O. [unclear]</i>	<i>Topoka</i>	<i>KSCPA</i>
<i>Lynn [unclear]</i>	<i>Topoka</i>	<i>KLSI</i>
<i>Richard S. Funk</i>	<i>Topoka</i>	<i>KASB</i>
<i>George Barber</i>	<i>Topoka</i>	<i>Ks Consulting Engrs.</i>
<i>Marjorie Van Buren</i>	<i>Topoka</i>	<i>O.J.A.</i>
<i>Melby Daniels</i>	<i>Topoka</i>	<i>Ks Dept on Aging</i>
<i>RON CALBERT</i>	<i>NEWTON</i>	<i>U.I.U.</i>
<i>BILL DANIELS</i>	<i>LAURENCE</i>	<i>SEN. PARRISIT LEG. INTERN</i>
<i>Bruce Wilkie</i>	<i>Topoka</i>	<i>AAUP</i>
<i>Richard Harmon</i>	<i>Topoka</i>	<i>Ks Assoc. of Property Casualty Ins. Cos</i>
<i>Dad [unclear]</i>	<i>Topoka</i>	<i>KCCI</i>
<i>Wm [unclear]</i>	<i>Topoka</i>	<i>KSCPA</i>
<i>[unclear] Friedman</i>	<i>" "</i>	<i>Att.</i>
<i>Lori Callahan</i>	<i>Topoka</i>	<i>am. ens. assoc.</i>
<i>Neil Furr</i>	<i>Topoka</i>	<i>KID</i>
<i>Barb Remert</i>	<i>"</i>	<i>KPOA</i>
<i>Jim McBride</i>	<i>Topoka</i>	<i>Observer</i>
<i>Don Smith</i>	<i>"</i>	<i>KBA</i>
<i>Melissa Ness</i>	<i>Topoka</i>	<i>Sen Works clutery</i>
<i>Bob Kunnels</i>	<i>K.C.</i>	<i>Ks. Cath. Conf.</i>
<i>Jim [unclear]</i>	<i>Topoka</i>	<i>KBA</i>

*attach II  
Sen. Judiciary  
2-3-87*



# THE ASSOCIATED LANDLORDS OF KANSAS, INC.

PO Box 86026, Topeka, Kansas 66686  
(913) 272-0058

## AREA CHAPTERS

Hutchinson, Johnson County, Kansas City, Lawrence,  
Salina, Shawnee County, & Wichita

TALK, The associated Landlords of Kansas, would like to take this opportunity to share common interests with you. The more than 1200 owners of residential rental property are united under one association, "TALK". Their purpose is to educate themselves in all aspects of managing and maintaining property, to improve dialog and relationships with tenants, and to improve communication with the governing bodies concerning legislative needs and concerns.

The organization currently has the following area chapters:

- Landlords of Johnson County Kansas Inc.
- Landlords Inc. - Kansas City, Kansas
- Landlords Inc. - Salina, Kansas
- Landlords Inc. - Lawrence, Kansas
- Rental Owners Inc. - Wichita, Kansas
- Shawnee County Landlords Association Inc.
- Topeka, Kansas
- Central Kansas Landlords Association
- Hutchinson, Kansas

The organization is in the process of establishing new chapters in several locations. The combined membership of this growing state-wide organization reflects major contributions to local economies for job creation, provides desirable rental homes for a significant segment of the population, and contributes to a sound major tax base. As a result, their economic well-being is a definite asset for Kansas.

One of our present goals is to eliminate a negative misconception which regards landlords as wealthy and unscrupulous. For example, a little known fact is that most rental property in Kansas is owned by local individuals who come from all walks of life. Many of these individuals do their own maintenance and management while also working a full time job. Their average age is between 35 and 50. Some of these individuals, in their retirement years, count on their rental property to assist in their income besides being a hedge against inflation and economic uncertainty.

The economic and political climates are of great concern to us for a number of reasons:

- A) Current economic factors cause many tenants to double up in order to be able to afford the rental unit.
- B) Rental housing is directly affected by high interest rates, rapidly increasing operating costs, and current stagnant real estate values. All of these factors lessen the attractiveness of rental property as a middle

*Attch. I  
Sen. Jud.  
2-3-87*

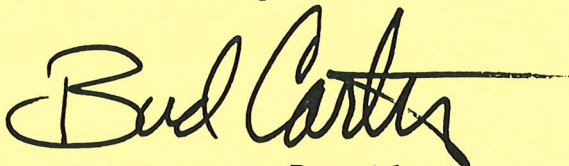


class investment.

- C) We are concerned about possible adverse legislation that will further deteriorate the desirability of rental housing investments for current and potential landlords. These legislative efforts are often well-intentioned, but frequently the result of unfortunate misconceptions regarding landlords and rental economics. Some proposed legislation creates long-term problems for both tenants and landlords by attempting to "fix something that isn't really broken".
- D) Finally, we are very concerned about the impact of any increased real estate taxes on both tenants and landlords of Kansas.

Large or small, young or old, landlords share the goal of financial independence-- a hallmark of American dreams. They recognize the sound business value of properly maintaining their vital investments and keeping tenants satisfied. These are our members, and this description, we are convinced, fits the vast majority of Kansas landlords. TALK members are available to meet with the legislators and other government officials, when requested, to discuss the impact of any proposed bill.

TALK has hired Harold Shoaf as their lobbyist. Harold is a veteran lobbyist with 14 years experience with the Kansas Legislature and will be pleased to assist you in any legislation affecting The Associated Landlords of Kansas. His phone number is (913) 272-0058. His office address is 4545 SW 21st, Topeka 66604 and mailing address is PO Box 86026, Topeka 66686.



Bud Carter, President  
The Associated Landlords of Kansas

K.S.A. 36-201. Language "as defined in Chapter 204 of the Laws of 1913" no longer applicable. Referenced statute was codified in K.S.A. 36-101, 36-102, and 36-104, all of which have been repealed.

K.S.A. 36-206. **Fraud or cheating in obtaining accommodations; penalties.** (a) Defrauding an innkeeper is obtaining any food, lodging or other accommodation at any restaurant, hotel, boarding-house, apartment house, rooming house or dwelling unit by means of any trick, deception or false representation, statement or pretense, with intent to defraud the owner or keeper thereof.

(b) Defrauding an innkeeper is a class A misdemeanor if the value of the food, lodging, services or other accommodations is \$50 or less. Defrauding an innkeeper is a class E felony if the value of the food, lodging, services or other accommodations is more than \$50.

(c) "Dwelling unit" as used herein means a structure or the part of a structure that is used as a home, residence or sleeping place by one (1) person who maintains a household or by two (2) or more persons who maintain a common household.

K.S.A. 36-207. **Proof of intent to defraud.** Proof that lodging, food or other accommodations were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property, or that he gave in payment for such food, lodging or other accommodation a check or other negotiable paper on which payment was refused, or that he left the inn, hotel, boardinghouse, apartment house, rooming house or dwelling unit without paying or offering to pay for such food, lodging, or other accommodation, or that he surreptitiously removed or attempted to remove his baggage or other property, or that he registered under a fictitious name, shall be prima facie proof of the intent to defraud mentioned in K.S.A. 36-206.

## SENATE BILL No. 44

By Committee on Judiciary

1-17

0017 AN ACT concerning theft; providing certain civil remedies  
0018 therefor.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (a) Any person who commits theft shall be civilly  
0021 liable to the owner of the property in an amount equal to:

0022 (1) Actual damages equal to the full retail value of the prop-  
0023 erty;

0024 (2) a civil penalty of not less than \$100 or more than \$1,000,  
0025 as determined by the court; and

0026 (3) attorney fees and court costs.

0027 (b) If a minor commits theft, the parent or guardian of the  
0028 minor shall be civilly liable for:

0029 (1) The amount provided by subsection (a), if the theft is  
0030 found to be the result of neglect by the parent or guardian; or

0031 (2) the amount provided by subsection (a) or the maximum  
0032 amount recoverable in actions pursuant to K.S.A. 38-120 and  
0033 amendments thereto, whichever is less, if the theft is not found  
0034 to be the result of neglect by the parent or guardian.

0035 (c) A conviction, plea of guilty or *nolo contendere* or adjudi-  
0036 cation of the offense of theft shall not be a prerequisite to the  
0037 bringing of an action pursuant to this section.

0038 (d) As used in this section, "theft" means theft as defined by  
0039 K.S.A. 21-3701 and amendments thereto.

0040 Sec. 2. This act shall take effect and be in force from and  
0041 after its publication in the statute book.

Atch. II  
Sen. Judiciary  
2-3-87

# SENATE BILL No. 25

By Special Committee on Tort Reform and Liability Insurance

Re Proposal No. 29

12-15

0017 AN ACT concerning tort liability for certain acts and omissions of  
0018 persons and entities practicing as certified public accountants.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. No person, proprietorship, partnership, profes-  
0021 sional corporation or association authorized to practice as a  
0022 certified public accountant pursuant to article 3 of chapter 1 of  
0023 the Kansas Statutes Annotated, or any employee, agent, partner,  
0024 officer, shareholder or member thereof, shall be liable to any  
0025 person or entity for civil damages resulting from acts, omissions,  
0026 decisions or other conduct amounting to negligence in the ren-  
0027 dition of professional accounting services unless:

0028 (a) The plaintiff directly engaged such person, proprietor-  
0029 ship, partnership, corporation or association to perform the pro-  
0030 fessional accounting services; or

0031 (b) (1) the defendant knew at the time of the engagement <sup>or the defendant</sup> and the client mutually agreed after the time of the  
0032 that the professional accounting services rendered the client <sup>engagement</sup>  
0033 would be made available to the plaintiff, who was identified in  
0034 writing to the defendant; ~~for use in connection with a specified~~  
0035 ~~transaction;~~ and (2) the defendant knew that the plaintiff in-  
0036 tended to rely upon the professional accounting services ren-  
0037 dered the client in connection with ~~a~~ specified transactions described in the writing.

0038 Sec. 2. This act shall take effect and be in force from and  
0039 after its publication in the statute book.

Sec. 2. This amendment is not intended to alter or modify existing common law rules of liability except as otherwise stated herein.

Sec. 3.

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Sen. Judiciary  
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2-3-87

(2) QUALIFIED SALE.—For purposes of this subsection, the term "qualified sale" means any sale or exchange of land by an individual to a member of such individual's family (within the meaning of section 267(c)(4)).

(3) \$500,000 LIMITATION.—Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sales price for such sale (when added to the aggregate sales price for prior qualified sales between such individuals during the calendar year) exceeds \$500,000.

(4) NONRESIDENT ALIEN INDIVIDUALS.—Paragraph (1) shall not apply to any sale or exchange if any party to such sale or exchange is a nonresident alien individual.

Amendments:

P.L. 97-448, § 101(g):

Amended Code Sec. 483(g)(4) by striking out "This section" and inserting in lieu thereof "Paragraph (1)". Effective as if such amendment had been included in the provision of P.L. 97-34 to which it relates.

P.L. 97-34, § 126(a):

Added Code Sec. 483(g) to read as above, applicable to payments made after June 30, 1981, pursuant to sales or exchanges after such date.

Subchapter F—Exempt Organizations

- Part I. General rule.
- Part II. Private foundations.
- Part III. Taxation of business income of certain exempt organizations.
- Part IV. Farmers' cooperatives.
- Part V. Shipowners' protection and indemnity associations.
- Part VI. Political organizations.
- Part VII. Certain home-owners associations.

PART I—GENERAL RULE

- Sec. 501. Exemption from tax on corporations, certain trusts, etc.
- Sec. 502. Feeder organizations.
- Sec. 503. Requirements for exemption.
- Sec. 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying.
- Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).

[Sec. 501]

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

[Sec. 501(a)]

(a) EXEMPTION FROM TAXATION.—An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

Amendments

P. L. 91-172, § 101 (j)(3):

Amended Code Sec. 501(a) by substituting "section 502 or 503" for "section 502, 503, or 504." Effective for taxable years beginning after December 31, 1969.

[Sec. 501(b)]

(b) TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

Amendments

P. L. 93-625, § 10(c):

Amended Code Sec. 501(b) by substituting "Parts II, III, and VI" for "Parts II and III". Effective for taxable years beginning after December 31, 1974.

P. L. 91-172, § 101(j)(4):

Amended Code Sec. 501(b), effective January 1, 1970. Prior to amendment, Code Sec. 501(b) read as follows.

"(b) Tax on Unrelated Business Income.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in part II of this subchapter (relating to tax on unrelated income), but, notwithstanding part II, shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes."

Internal Revenue Code

Sec. 501(b)

Attch. IV  
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## [Sec. 501(c)]

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

(1) any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) is exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (d).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (b)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

## Sec. 501(c)

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Internal Revenue

IV

(12)(A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals, or

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company.

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued from qualified pole rentals.

(D) For purposes of this paragraph, the term "qualified pole rental" means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term "rental" includes any sale of the right to use the pole (or other structure).

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,

(iii) mutual savings banks not having capital stock represented by shares, or

(iv) mutual savings banks described in section 591(b).

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15)(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$350,000.

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term "controlled group" has the meaning given such term by section 831(b)(2)(B)(ii).

Internal Revenue Code

Sec. 501(c)

IV



(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the base or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

Sec. 501(c)

IV

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(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)),

(C) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(D) in the case of a plan under which an employee may designate certain contributions as deductible—

(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3),

(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions, and

(iii) such contributions are treated as elective deferrals for purposes of section 402(g) (other than paragraph (4) thereof).

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(20) An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(21) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

(A) the purpose of such trust or trusts is exclusively—

(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts;

(ii) to pay premiums for insurance exclusively covering liability; and

(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

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(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in—

- (I) public debt securities of the United States,
- (II) obligations of a State or local government which are not in default as to principal or interest, or
- (III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(c) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States, or
- (iii) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust)

For purposes of this paragraph the term "Black Lung Acts" means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

- (A) the purpose of such trust is exclusively—
  - (i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974, and
  - (ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,
- (B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—
  - (i) the purposes described in subparagraph (A), or
  - (ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),
- (C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and
- (D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).

(25)(A) Any corporation or trust which—

- (i) has no more than 35 shareholders or beneficiaries,
- (ii) has only 1 class of stock or beneficial interest, and
- (iii) is organized for the exclusive purposes of—
  - (I) acquiring real property and holding title to, and collecting income from, such property, and
  - (II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.
- (B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).
- (C) An organization is described in this subparagraph if such organization is—



(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

(ii) a governmental plan (within the meaning of section 414(d)),

(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing,

(iv) any organization described in paragraph (3), or

(v) any organization described in this paragraph.

(D) A corporation or trust described in this paragraph must permit its shareholders or beneficiaries—

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

#### Amendments

P.L. 99-514, § 1024(b):

Act Sec. 1024(b) amended Code Sec. 501(c)(15) to read as above. Prior to amendment, Code Sec. 501(c)(15) read as follows:

(15) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the gross amount received during the taxable year from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) does not exceed \$150,000.

The above amendment applies to tax years beginning after December 31, 1986. However, for transitional rules, see Act Sec. 1024(d) in the amendment notes following Code Sec. 824.

P.L. 99-514, § 1109(a), 1114(b)(14), 1603(a):

Act Sec. 1109(a) amended Code Sec. 501(c)(18) by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof new subparagraph (D) to read as above.

Act Sec. 1114(b)(14) amended Code Sec. 501(c)(17)(A)(ii) and (iii) and (c)(18)(B) and (C) by striking out "officers, shareholders, person whose principal duties consists [sic] of supervising the work of other employees, or highly compensated employees" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

Act Sec. 1603(a) amended Code Sec. 501(c) by adding at the end thereof new paragraph (25) to read as above.

The above amendments apply to tax years beginning after December 31, 1986.

P.L. 99-514, § 1879(k)(1)(A)-(C):

Act Sec. 1879(k)(1)(A)-(C) amended Code Sec. 501(c)(14)(B) by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "or" and by inserting at the end thereof new clause (iv) to read as above.

The above amendment applies to tax years ending after August 13, 1981.

P.L. 99-514, § 1899A(15):

Act Sec. 1899A(15) amended Code Sec. 501(c)(1)(A)(i) by striking out "the date of the enactment of the Tax Reform Act of 1984" and inserting in lieu thereof "July 18, 1984".

## Sec. 501(c)

The above amendment is effective on the date of enactment of the Act.

Act Sec. 1302 provides as follows:

### SEC. 1302. TREATMENT OF SECTION 501(c)(3) BONDS.

Nothing in the treatment of section 501(c)(3) bonds as private activity bonds under the amendments made by this title shall be construed as indicating how section 501(c)(3) bonds will be treated in future legislation, and any change in future legislation applicable to private activity bonds shall apply to section 501(c)(3) bonds only if expressly provided in such legislation.

P.L. 99-272, § 11012(b):

Act Sec. 11012(b) amended Code Sec. 501(c) by adding at the end thereof new paragraph (24) to read as above.

The above amendment is effective as of January 1, 1986, except that such amendment shall not apply with respect to terminations for which—

(1) notices of intent to terminate were filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 before such date, or

(2) proceedings were commenced under section 4042 of such Act before such date.

For transitional rules see Act Sec. 11019(b)-(c) in the amendment notes following Code Sec. 402(a).

P.L. 98-369, § 1079:

Act Sec. 1079 amended Code Sec. 501(c)(1), as amended by Act Sec. 2813 by striking out subparagraph (A) thereof and inserting in lieu thereof new subparagraph (A) above. Effective 7-18-84. Prior to amendment, subparagraph (A) read as follows:

(A) is exempt from Federal income taxes under such Act, as amended and supplemented, or

P.L. 98-369, § 2813(b)(2):

Act Sec. 2813(b)(2) amended Code Sec. 501(c)(1) to read as above. Effective 10-1-79. Prior to amendment, it read as follows:

(1) Corporations organized under Act of Congress, if set corporations are instrumentalities of the United States or if, under such Act, as amended and supplemented, set corporations are exempt from Federal income taxes.

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IV

Internal