

Approved March 25, 1988
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:09 a.m./~~p.m.~~ on March 24, 19 88 in room 423-S of the Capitol.

All members were present except: Senator Doyen (excused)
Senator Gordon (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Jon Josserand, Assistant for Government Relations
University of Kansas
Dr. Bob Domer, veterinarian, Topeka, Kansas
Dr. Roger Rankin, veterinarian, Hiawatha, Kansas
Representative Bill Bryant
Wilbur Leonard, Committee of Kansas Farm
Organizations
Mike Beam, Kansas Livestock Association
Chuck Stones, Kansas Bankers Association

Senator Allen called the committee to order and called attention to SB 710 and then called on Jon Josserand to testify.

Jon Josserand explained that SB 710 had been requested by the Board of Regents for the KU Medical Center. The KU Medical Center has been having a problem with recruiting animal care specialists for their animal care facilities. It is a specialized area and questions have arisen about how these specialists are licensed and that has caused problems with recruiting people. The provisions of SB 710 would allow the KU Medical Center to have an institutional license similar to the institutional license that K-State has with its veterinary school. Mr. Josserand requested favorable action by the committee on SB 710.

The Chairman called for committee action on SB 710.

Senator Arasmith made a motion that the committee recommend SB 710 favorable for passage. Senator Norvell seconded the motion. Motion carried.

The Chairman called attention to HB 2813 and called on Dr. Bob Domer and the following to testify.

Dr. Domer gave copies of his testimony to the committee (attachment 1). Dr. Domer stated that HB 2813 was patterned around the Nebraska and Iowa bills. Dr. Domer requested the committee recommend HB 2813 favorable for passage.

Dr. Roger Rankin testified in support of HB 2813. Dr. Rankin stated the present law is too vague and that veterinarians would like to have an effective law. He reported that veterinarians are called to many emergency situations in which they perform a service, but later when payment for services is considered there is no pay. He explained that in some places it is illegal for a veterinary to refuse service so this bill would allow some protection in cases of nonpayment for services.

In answer to committee questions, Dr. Rankin explained that maybe ten percent of his fees for services are uncollectable. He stated that veterinarians may not be able to continue to practise if they are unable to collect overdue bills. Dr. Rankin explained that if a veterinary collected by way of a lien on an animal that the veterinary would collect only the amount of the bill owed that the veterinary would not collect the total worth of the animal or animals.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:09 a.m./~~PM~~ on March 24, 1988

Representative Bill Bryant gave copies of his testimony to the committee (attachment 2). Representative Bryant requested passage of HB 2813.

Wilbur Leonard gave the committee copies of his testimony (attachment 3). Mr. Leonard requested favorable action on HB 2813 as amended.

Mike Beam gave copies of his testimony to the committee (attachment 4). Mr. Beam requested the committee recommend passage of HB 2813 as amended.

Chuck Stones gave copies of his testimony to the committee (attachment 5) and testified as an opponent to HB 2813.

The Chairman declared the hearing for HB 2813 closed and called for committee action on minutes.

Senator Montgomery made a motion the minutes of March 23 be approved. Senator Karr seconded the motion. Motion carried.

The Chairman adjourned the committee at 10:55 a.m.

March 24, 1988

TESTIMONY
to
SENATE AGRICULTURE COMMITTEE
HB 2813

Mr. Chairman and members of the committee, I am Dr. Bob Domer, President of the Kansas Veterinary Medical Association. We appear today in support of House Bill 2813 as amended.

Currently, K.S.A. 47-836 is the only statutory authority under Kansas law for a lien for veterinarian services, which allows a veterinarian offering professional service to animals in their possession shall have a lien upon such animal for the just and reasonable charges therefore, and may hold and retain possession of such animal until such charges are paid.

The lien hereby created shall have preference over any and all other liens or encumbrances upon such animal or animals.

House Bill 2813 is a non-possessionary lien that does not have preference over a possessionary lien. One obvious argument on behalf of a veterinarian lien is that if

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services were not bestowed upon the livestock then there would be no value at all for the secured creditor of the farmer.

With that in mind, we urge your favorable consideration and respectfully request that you recommend HB 2813 as amended for passage.

Thank you for your consideration.

WILLIAM M. BRYANT, D.V.M.
REPRESENTATIVE SIXTY THIRD DISTRICT
WASHINGTON REPUBLIC AND
NORTHERN RILEY COUNTIES
RURAL ROUTE 2
WASHINGTON KANSAS 66968



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN INSURANCE
MEMBER AGRICULTURE AND SMALL BUSINESS
FEDERAL AND STATE AFFAIRS

March 24, 1988
Senate Agriculture Committee
HB 2813

HB 2813 as presented by Representative Teagarden and myself would change the procedure whereby a veterinarian might obtain a lien on animals treated in order to obtain payment for his services.

Current law dealing with liens for veterinary services is contained in Section 1 of the bill. This lien requires that the veterinarian may hold or retain possession of the animal until services are paid for. Many things make this unworkable in the area of large animal treatment. First, if the animal is treated on the owners premises, the veterinarian never has it in his possession. Secondly, it has been shown in court that the exact animal must be in possession and not another of like kind. It is also difficult for a veterinarian to retain or possess a herd of dairy cows that need to be milked daily.

The new language would not require possession. Such lien would be in force when proper filing is made with the register of deeds within 60 days of furnishing the service. The lien created would have preference over any other liens and encumbrances upon such animal with the exception of those

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included in line 39. This preference is in line with the current veterinary lien. It also conforms to current Kansas statute dealing with liens on personal property as illustrated here.

Article 2.—LIENS ON PERSONAL PROPERTY

Cross References to Related Sections:

Fees of register of deeds, see 28-115.

Oil and gas leases and pipe lines, see 55-207 to 55-210.

Liens for labor and material, see ch. 60, art. 11.

58-201. Liens for materials and services; filing statements with register of deeds, contents. Whenever any person at, or with the owner's request or consent shall perform work, make repairs or improvements on any goods, personal property, chattels, horses, mules, wagons, buggies, automobiles, trucks, trailers, locomotives, railroad rolling stock, barges, aircraft, equipment of all kinds, including but not limited to construction equipment, vehicles of all kinds, and farm implements of whatsoever kind, a first and prior lien on said personal property is hereby created in favor of such person performing such work or making such repairs or improvements and said lien shall amount to the full amount and reasonable value of the services performed, and shall include the reasonable value of all material used in the performance of such services.

This priority language exists in all service type liens that I have found in our Kansas statute book.

Language in our neighboring state of Nebraska's veterinary lien law states in part that "such veterinarian shall have a first, paramount, and prior lien upon such livestock." This language appears to be much stronger than Kansas' law.

My feeling is that such priority is only warranted by the fact that if an animal is not kept healthy it is of little or no value to anyone who might have a security interest in it.

The new language in lines 38, 39 and 40 reference the livery or feeder lien and agister's lien. Since good nutrition is paramount to good health, we do not object to this addition.

The language on lines 43, 44, 45 and 46 speak to subsequent purchasers being exempt. We veterinarians have no quarrel with this, feeling that our problems should be addressed where they begin and not with someone else.

In closing I would like to ask you, when was the last time you read in your home town paper about a veterinarian taking someone to court to collect a debt; or have you ever seen such a notice? I would suggest that it rarely happens. Where does the debt go? It is absorbed by the practitioner, and I doubt if you've heard him complain very often. This bill would allow the veterinarians to recover for unpaid services in some instances, and I hope you will consider passing the bill favorably. Thank you.

Committee of . . .

Kansas Farm Organizations

Wilbur G. Leonard
Legislative Agent
109 West 9th Street
Suite 304
Topeka, Kansas 66612
(913) 234-9016

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 2813

BEFORE THE SENATE COMMITTEE ON AGRICULTURE

March 24, 1988

Mr. Chairman and Members of the Committee:

I am Wilbur Leonard, appearing on behalf of the Committee of Kansas Farm Organizations. We appreciate the opportunity to express the views of our members in support of House Bill No. 2813.

Veterinarians have had a possessory lien upon animals which have been treated by them, but often they do not take actual possession of those animals. On other occasions they release the animals to their owners in the mistaken belief they will be paid for their services.

This bill merely provides for a non-possessory lien which can be established within 60 days after the services have been rendered by filing a verified notice in the office of the register of deeds. Liens for veterinary services would be given priority over all other liens except possessory liens for feeding or pasturing animals. Also, unless a subsequent purchaser has received actual notice of the existence of the lien it would not be enforceable against such purchaser.

As to security holders, their equity is only further impaired by the amount of the charges for veterinary services. It is to their interest to preserve the life and well being of their collateral.

We believe the bill is fair, practical and fills a void in the present statutes. We respectfully urge the Committee to recommend HB 2813 favorably for passage.

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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

March 24, 1988

TO: Senate Agriculture Committee
Senator Jim Allen, Chairman

FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

RE: HB ~~2413~~ - LIENS FOR VETERINARY SERVICES

Mr. Chairman and committee members, I'm Mike Beam with the Kansas Livestock Association. Our friends in the veterinary profession provide an invaluable service to the livestock industry. We believe they should have the statutory authority to file a lien if they have a client who fails to pay his/her bill.

The House Agriculture Committee adopted two KLA supported amendments. I'd like to briefly describe the amendments and explain why we feel they are necessary.

First, let me say that many of our members are involved in the business of custom grazing, backgrounding, and feeding of livestock. The two liens used by these producers are possessory liens and are found in K.S.A. 58-207 and K.S.A. 58-220. It was unclear to us if the proposed lien in HB 2813 took preference to these possessory liens. The language found on lines 30 to 40

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clarify the possessory liens. The language found on lines 38 to 40 that clarify the possessory lien are not impaired by the new veterinary lien.

The language on lines 43 to 46 provides some protection to subsequent purchasers, yet allows veterinarians to enforce their lien against the debtor if it's necessary to collect debts. This provision merely requires lien holders to give prior notice to purchasers before they can initiate foreclosure.

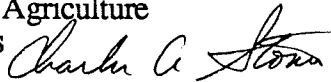
Again, we believe it's appropriate for veterinarians to have the option of filing a lien and wish to voice our support for the amendments adopted by the House. Thank you.

The Kansas Bankers Association
1500 Merchants National Bank Bldg.
Topeka, KS 66612
913-232-3444

3-24-88

TO: Senate Committee on Agriculture

FROM: Charles A. Stones



RE: HB 2813 - Creation of a nonpossessory lien for veterinary services

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee to discuss the provisions of HB 2813 which would create a new, non-possessory lien for services rendered by a veterinarian. This priority lien right would be in addition to the lien rights granted to veterinarians under the provisions of K.S.A. 47-836.

The banking industry does empathize with the position of the veterinarian. We realize a healthy animal is worth more than a sick one, however, we must remember that credit must be extended for the animals in the first place. If a bank or any other creditor has a security interest in a herd of cattle or anything else, that security interest should not be subsequently diluted by anyone or anything that is out of the original lenders control. The party who takes the very first lien has absolutely no protection or any choice over losing those lien rights in the event some party steps in late to supercede those rights. If a veterinarian should be the first lienholder on a pen of cattle, and the owner of those cattle should later pledge them as collateral on a loan, then the lender certainly should not step in front of the first lien. The lender would clearly know their position to be secondary. They could freely make that choice whether or not to extend credit in that situation. But when a secondary party steps in front of the first lienholder, whoever it is, that first lienholder has absolutely no opportunity to protect him/herself from loss. We must realize that the availability of that credit may be impaired by this and/or any other priority lien rights given to a subsequent provider of credit or services. The question, "Where do we draw the line?" on non-possessory priority liens seems to apply in this case.

The amendments made to the bill in the House Committee corrected most of the technical problems of the bill. However, the banking industry still has some policy concerns about this measure which would expand the statutory authority for preferential lien rights. These rights have been granted very carefully by the Legislature over many years because of the potential impact which they can have on the availability of credit. The policy decision which the Legislature must always address in these situations is whether the lien rights extended to a certain group can have an adverse impact on the debtor/creditor relationship. HB 2813 raises this policy question. In addition to this basic question concerning priority lien rights HB 2813 was amended in the House Committee to give veterinarians lien rights over one class of creditor and not another.

HB 2813 creates policy questions which obviously need to be addressed. It would be our recommendation that this issue plus all possessory and nonpossessory lien statutes be reviewed in detail by a legislative interim committee so as to update and bring greater uniformity to these various statutory provisions. We appreciate the opportunity to express our viewpoint on this important legislative matter.

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