

3/27/89

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCEThe meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson9:00 a.m./~~p.m.~~ on THURSDAY, MARCH 23, 1989 in room 529-S of the Capitol.~~All~~ members were present ~~except~~ Senators, Bond, Salisbury, Strick, McClure, Parrish, Karr, Reilly, D. Kerr, Yost, and Moran.

Committee staff present:

Bill Wolff, Legislative Research
Bill Edds, Revisors Office
Louise Bobo, Committee Secretary

Conferees appearing before the committee:

Edward Soule, Lawyers Title of Topeka
John F. Kuether, Washburn Law School (represented by Ron Smith, KBA)

Chairman Bond called the meeting to order at 9:15 a.m.

HB 2222 - Bill Mitchell, Kansas Land Title Association, introduced Edward Soule, Lawyers Title of Topeka, Inc., who testified in support of HB 2222. Mr. Soule explained that this bill would amend Kansas statutes to allow licensed abstractor's errors and omissions policies to be written with a deductible not to exceed 10% of the amount of coverage. Present law does not allow the deductible to exceed \$2500.00. According to Mr. Soule, this bill would benefit consumers as well as abstractors. (attachment 1)

A brief discussion followed. A committee member asked Mr. Soule about the position of the insurance carriers relative to this bill. Mr. Soule advised that there was no opposition to this bill.

There being no further conferees, Chairman Bond announced the hearings closed on HB 2222.HB 2509 - Ron Smith, Kansas Bar Association, presented the testimony of John F. Kuether, Washburn Law School, who was unable to be present. Mr. Kuether's testimony stated that HB 2509 would return Kansas to conformity with the Uniform Commercial Code. The bill would amend two sections of the Uniform Commercial Code relating to secured transactions. The proposal conforms the numbering of KSA 84-9-302 to the numbering of the Uniform provisions and the bill restores the Uniform provision which protects a consumer from the claim of the automatically perfected secured seller, unless the seller has filed with the recorder of deeds. (attachment 2)

Discussion followed. A committee member asked Mr. Smith if "significant part" in line 41 of the bill was considered model language. He replied that it was. Another committee member asked for further explanation of the example of a person buying a TV at a garage sale. It was explained that if it has been perfected then the person who buys the TV at a garage sale would have to give it up. If it has not been perfected then the person would have title to it. A committee member asked for a definition of "perfected." Mr. Smith explained that "perfected" means filing a finance statement with the Secretary of State. A committee member remarked that if the item was under \$1000 it would be perfected automatically. Staff suggested that this was protection for the consumer--that even though it is a perfected item the consumer buys it free and clear unless it is a farm product or comes under the landlord/tenant exception. In response to a question from a committee member, Mr. Smith advised that the bill was introduced at the request of the Kansas Bankers Association. Jim Maag, Kansas Bankers Association, spoke briefly stating that the Kansas Bankers Association had no official position and that the bill is basically a "conformity measure."

Senator Yost made a motion to pass the bill out of committee favorably. Senator Strick seconded the motion and the motion carried. Senator Yost volunteered to carry the bill on the floor of the Senate.Chairman Bond inquired of the committee's wishes concerning HB 2222.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,

room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on THURSDAY, MARCH 23, 1989

Senator Strick made a motion to move HB 2222 out of committee favorably. Senator Yost seconded the motion and the motion carried. Chairman Bond will carry this bill on the floor of the Senate.

Staff made further explanation of HB 2222 stating that the 10% of the amount of coverage was the same as the present regulations limiting the deductible to \$2500 and, therefore, nothing was accomplished in that respect by this bill. Staff suggested that the Board of Examiners needs to be asked for more definitive regulation language.

HB 2497 - Senator Salisbury moved that this bill be passed out favorably. Senator Reilly seconded the motion. The motion passed. Senator Bond will carry this bill.

HB 2502 - A committee member advised the committee that he had a real problem with the controlled business situation. He said it was anti-competitive--the title companies try to steer customers to the title company they own and they have no incentive to look out for the consumer. Another committee member remarked that it was not mandatory for a person to purchase title insurance from one particular company. A committee member remarked that most people did not know or care where the title insurance was purchased. A committee member stated that controlled business had caused problems all over the country--he continued that the rates are less competitive and items are insured that do not need to be insured.

Senator Yost made a motion to amend the bill by reinserting section (f) into the bill. Senator Strick seconded the motion and the motion carried.

Discussion continued. A committee member stated that he had always relied on the Insurance Commissioner and felt there was a need for this bill or the Insurance Department would not have requested it. Another committee member remarked that there was no question the broker, in some instances, would push the title company to issue the title policy, even though the title might be clouded, so that the real estate sale could be completed. Ron Todd, Assistant Insurance Commissioner, told the committee that the Insurance Department supports the bill as it was originally introduced. He advised the committee that with section (f) in the bill a good part of the problem would be solved.

Senator Strick made a motion that HB 2502 be passed out of committee favorably as amended. Senator Salisbury seconded the motion. The motion carried. Senator Yost will carry the bill before the Committee of the Whole.

Senator Reilly moved that the minutes of Tuesday, March 21, 1989, be approved as written. Senator Moran seconded. The motion carried.

In response to the request of a committee member, Ron Todd passed out a list of the members of Commissioner Bell's study group on Title Insurance. (attachment 3)

The meeting adjourned at 10:00 a.m.

Hayden B. St. John
President

Lawyers Title of Topeka, Inc.



2214 WEST TENTH STREET
TOPEKA, KANSAS 66604



Telephone
(913)232-6934

March 23, 1989

Testimony in Support of House Bill 2222

House Bill 2222 would amend K.S.A. 58-2802 to allow licensed abstractor's errors and omissions policies to be written with a deductible of not to exceed 10% of the amount of coverage. Current law does not allow the deductible to exceed \$2,500.00. The Abstractor's Board of Examiners would determine the deductible permitted.

House Bill 2222 is supported by the Kansas Land Title Association. The measure will allow abstractors to purchase errors and omissions policies with coverage in line with real estate values of today at similar premium costs. The benefit is to consumers (more coverage thru their abstractors) as well as to abstractors (more coverage for similar premium dollars). Abstractors would be "self-insured" for the deductible amount, and will be able to determine the amount of "self-insurance" reasonable for their volume and size of business.

Edward B. Soule
Vice-President
Lawyers Title of Topeka, Inc.



*Attachment 1
Sen. FI + I
3/23/89*



WASHBURN UNIVERSITY OF TOPEKA

School of Law
Topeka, Kansas 66621
Phone 913-295-6660

To: Members of the Financial Institutions and Insurance Committee

From: John F. Kuether

Re: HB 2509 Amending the Uniform Commercial Code to conform the
Kansas provisions to the Uniform Provisions

Date: March 22, 1985

When Kansas adopted the Uniform Commercial Code in 1965, we deleted the provisions of 9-301 (1) (d) and 9-307 (2) that provided that a purchase money security interest in consumer goods was automatically perfected.

Under the Uniform provisions, if a consumer buys an article on credit, and grants the seller a security interest (personal property mortgage to secure the payment), the seller is automatically perfected and prevails over the trustee in bankruptcy if the consumer goes bankrupt. The seller would also prevail over other creditors of the consumer.

Under the act as passed by Kansas, the seller not only had to have a security interest, but it had file with the recorder of deeds to perfect it. This takes additional time and several dollars for the filing fee for each transaction, raising the cost of credit to the seller and to the consumer.

In 1987, the Kansas legislature reenacted part of the uniform provision, providing that the purchase money security interest of less than \$1,000 for consumer goods was automatically perfected. However, that legislation did not address the other uniform provisions relating to purchase money security interests in consumer goods which were omitted in 1965.

HB 2509 will return Kansas to conformity with the Uniform Commercial Code.

§ 1 conforms the numbering of K.S.A. 84-9-302 to the numbering of the Uniform provisions by placing Kansas' 9-302 (f) as (d). This will simplify research under the code. It also adopts the Uniform provision which provides for automatic perfection of the assignment of an insignificant amount of a person's accounts.

§ 2 of the bill restores the Uniform provision of 9-307 (2) which protects a consumer buying in the garage sale situation from the claim of the automatically perfected secured seller, unless the seller has filed with the recorder of deeds.

*Attachment 2
Sen. FI + I
3/23/89*

Title Insurance Study Group

William G. Malone
221 N. Market
Wichita, Kansas 67202

John W. Dozier, Jr., Executive Vice President
Columbian National Title Insurance Company
820 SE Quincy
Topeka, Kansas 66605

Roy Worthington
Charlson & Wilson Abstracters
111 N. 4
Manhattan, Kansas 66502

George E. Burket III, President
Kingman Abstract and Title Company, Inc.
P. O. Box 375
221 N. Main
Kingman, Kansas 67068

Roderick E. Weltmer
201 W. Webster
Mankato, Kansas 66956

Harold A. Stones
Kansas Bankers Association
Merchants National Bank Building
Topeka, Kansas 66612

William L. Mitchell
Mitchell & Henry
119 W. Sherman
Hutchinson, Kansas 67501

Jean Duncan
Kansas Real Estate Commission
Landon State Office Building, Room 501-N
900 SW Jackson
Topeka, Kansas 66612-1277

John E. Kerwin, President
Land Title Corporation
Title Records, Inc.
P. O. Box 1125
Olathe, Kansas 66061

Attachment 3
77 + I
3/23/89

Tom Palace
Kansas League of Savings Institutions
700 Kansas Avenue, Suite 512
Topeka, Kansas 66603

Karen L. McClain
Kansas Association of Realtors
3644 SW Burlingame
Topeka, Kansas 66611

Mark A. Meyerdirk
Meyerdirk Title Company
1901 W. 47th Place, Suite 1
Westwood, Kansas 66205

Stephen J. Shumate
Re/Max Overland Park Real Estate, Inc.
6800 College Boulevard, Suite 110
Overland Park, Kansas 66211

cc: Bill Pamy, Senior Vice President/General
Meyerdirk Title Company
Mark Twain Tower, Suite 110
100 West 117th Street
KC, MO 64116