

Approved: 3/14/97 \_\_\_\_\_  
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:04 a.m. on February 21, 1997 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused  
Rep. Broderick Henderson - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee: Dave Debenham, Deputy Attorney General  
Austin Nothern, Attorney  
Rep. Bob Tomlinson  
T. C. Anderson, KS Society of CPA's

Others attending: See attached list

The minutes of February 4, 5, 6, and 7 were passed out to the committee and staff. They will be approved at the next meeting.

**Continued hearing on: HB 2230 - Prohibiting pyramid promotional schemes.**

Dave Debenham, Deputy Attorney General, Criminal Division appeared as a proponent of the bill on behalf of Attorney General Stovall. This bill makes it clear that the operation or promotion of a pyramid scheme is not a legitimate business activity and provides a specific criminal statute for the prosecution of such illegal activity. The law is copied from laws passed by other states. (see Attachment 1) Included in the attachment is a sentencing range of nondrug offenses, showing the level 9 sentencing options of the bill. He concluded by answering questions from the committee.

No others were present to testify for or against the bill and Chairman Lane closed the hearing.

**Hearing on: HB 2308 - Limited liability companies and limited partnerships; right to withdraw.**

Austin Nothern appeared as a proponent of the bill. He is an attorney in Topeka who does tax and estate planning.

Written testimony from Ron Smith, Kansas Bar Association General Counsel, was passed out to the committee. (see Attachment 2)

Chairman Lane read the fiscal note on **HB 2308**. The passage of the bill would have no fiscal impact on state operations. He asked if anyone else was present who wanted to testify for or against the bill. None were present and he closed the hearing on the bill.

**Hearing on: HB 2294 - Answer of garnishee to include total amount due and amount immediately due.**

Rep. Bob Tomlinson appeared as a proponent of the bill. It is designed to clear up a misunderstanding in the law. (see Attachment 3)

Chairman Lane read the fiscal note for the bill. No others were present to testify for or against the bill and Chairman Lane closed the hearing.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S  
Statehouse, at 9:04 a.m. on February 21, 1997.

Hearing on: **HB 2217 - Certified public accountants; continuing education requirements.**

T. C. Anderson, Kansas Society of Certified Public Accountants, appeared as a proponent of the bill. **House Bill 2217** will change the current continuing education requirement of 40 hours a year to 80 hours every two years with a 20 hour minimum in each year. It would also change the reporting period. (see Attachment 4)

Chairman Lane read the fiscal note for the bill. It would have no fiscal impact. No others were present to testify on the bill and Chairman Lane closed the hearing.

**Action on: HB 2205 - Civil remedy for worthless checks; defining intent to defraud and reasonable attorney fees"**

Rep. Pauls suggested an amendment to the bill on page 2, line 21, to strike after the word fees "~~unless otherwise provided in this subsection~~" and page 3, line 20, to describe reasonable attorney fees as: "means an amount equal to three hours of the hourly rate for an experienced attorney within the judicial district in which the case is heard." Rep. McCreary made a motion to pass out the bill favorably with the suggested amendment by Rep Pauls. It was seconded by Rep. Crow. The motion carried.

**Action on: HB 2308 - Limited liability companies and limited partnerships; right to withdraw.**

Rep. Pauls made a motion to pass out the bill favorably and place it on the Consent Calendar. It was seconded by Rep. Mason. The motion carried.

**Action on: HB 2294 - Answer of garnishee to include total amount due and amount immediately due.**

Rep. Wilson made a motion to pass out **HB 2294** favorably with the amendment offered by Rep. Tomlinson, to amend on page 1, line 32, after the words, "Total amount due", add "of garnishment", and after "Amount immediately due", add "to the defendant." It was seconded by Rep. Crow. The motion passed.

**Action on: HB 2217 - Certified public accountants; continuing education requirements.**

A motion was made by Rep Boston to pass out **HB 2217** favorably and place it on the Consent Calendar. It was seconded by Rep. Storm. The motion carried.

**Action on: HB 2230 - Prohibiting pyramid promotional schemes.**

A motion was made by Rep. Pauls to pass out **HB 2230** favorably with the amendment suggested by the Deputy Attorney General to change the enactment date to that of publication in the Kansas Register. It was seconded by Rep. Mason. The motion carried.

Chairman Lane adjourned the meeting at approximately 9:45 a.m.

The next meeting is scheduled for February 24, 1997.





State of Kansas

## Office of the Attorney General

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TESTIMONY OF  
DEPUTY ATTORNEY GENERAL DAVID B. DEBENHAM  
BEFORE THE HOUSE JUDICIARY COMMITTEE  
RE: HOUSE BILL 2230  
FEBRUARY 20, 1997

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today, on behalf of Attorney General Stovall, to ask for your support on House Bill 2230. This bill makes it clear that the operation or promotion of a pyramid scheme is not a legitimate business activity and provides a specific criminal statute for the prosecution of such illegal activity.

Pyramid promotional schemes are currently being treated as violations of the Kansas Securities Act, the consumer protection act or the general criminal theft statute. However, these types of criminal endeavors do not fit precisely within any of these existing statutes. This bill would create a specific crime for pyramid schemes and cure any existing ambiguity about whether such schemes are securities violations or consumer violations and allow for prosecution by county and district attorneys, as well as the Attorney General.

Although this bill would make such crimes a felony, by the very nature of being classified as a severity level 9 nonperson felony, it should have an insignificant impact on any additional prison space.

On behalf on Attorney General Stovall, I would urge your favorable consideration of House Bill 2230.

*Business, Commerce  
& Labor Committee  
2/21/97  
Attachment 1*

## SENTENCING RANGE - NONDRUG OFFENSES

ory⇒	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanor	1 Misdemeanor No Record
I	816 776 740	772 732 692	356 340 322	334 316 300	308 292 276	282 268 254	254 244 230	232 220 208	206 194 184
II	616 584 552	576 548 520	270 256 242	250 238 226	230 218 206	210 200 190	192 182 172	172 164 154	154 146 136
III	206 194 184	190 180 172	89 85 80	83 78 74	77 73 68	69 66 62	64 60 57	59 55 51	51 49 46
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

1-2

### LEGEND

Presumptive Probation

Border Box

Presumptive Imprisonment

**Recommended probation terms are:**

36 months for felonies classified in Severity Levels 1 - 5  
24 months for felonies classified in Severity Levels 6 - 10

**Postrelease terms are:**

For felonies committed before 4/20/95

24 months for felonies classified in Severity Levels 1 - 6  
12 months for felonies classified in Severity Level 7 - 10

For felonies committed on or after 4/20/95

36 months for felonies classified in Severity Levels 1 - 6  
24 months for felonies classified in Severity Level 7 - 10

1-2





# Legislative Testimony

## KANSAS BAR ASSOCIATION

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Executive Director  
Karla Beam, Continuing Legal  
Education Director  
Ginger Brinker,  
Administrative Director  
Debra Prideaux,  
Communications Director  
Ronald Smith,  
General Counsel  
Art Thompson,  
Public Services Director

TO: Members, House Business, Commerce and Labor Committee  
FROM: Ron Smith, KBA General Counsel  
SUBJ: HB 2308  
DATE: February 20, 1997

In 1990, Congress enacted what it termed "estate freeze" provisions in the Internal Revenue Code. Generally, these provisions are designed to restrict the ability of estate planners to utilize certain types of irrevocable trusts and other sophisticated estate planning techniques. Such techniques had permitted individuals to retain an interest in property while at the same time transferring other interests in such property to family members without the transfer or the growth in value of the property to be fully subject to the federal gift or estate tax.

One provision, Section 2704 of the IRC, permits the IRS for valuation purposes to disregard restrictions on liquidation in business entities if the restriction is more restrictive than the default provisions under applicable state law.

Example: if a partner had a liquidation right which expired at the partner's death, the IRS could ignore that lapse. Consequently, the partnership interest would be valued for estate tax purpose at death as if the interest was liquidated. Had the restrictions in the business entity been imposed the value of the partnership interest would be less.

Sometimes LLCs and LP are used to create lawful estate planning devices. Under current LLC and LP laws, the IRS might be able to argue that these statutes allow liquidation and thus the value the IRS will place on the withdrawal event would be higher than the value for estate purposes. If so, the use of these estate planning entities to achieve lawful valuation reductions for minority ownership interests would be severely compromised. The proposed statutory changes in HB 2308 make the default provisions in current Kansas law regarding LLCs and limited partnerships so that members of LLCs and LP partners do not have the right to liquidate their partnership interest. *It has no retroactive effect on existing LLCs or LPs.*

The inclusion of this default provision would have no adverse affect on anyone wishing to permit a partner or member to unilaterally withdraw from LLCs or LPs. Other instruments in the business can cover that situation. The statutes amended in HB 2308 are "default" statutes, that cover situations if they are not separately covered in the business entity documents themselves. Most LLCs and LPs are not created for estate planning purposes, and they normally include provisions precluding automatic unilateral withdrawal rights during the term of the limited partnership or the LLC.

Thank you.

*Business, Commerce  
& Labor Committee  
2/21/97  
Attachment 2*

BOB TOMLINSON  
REPRESENTATIVE 24TH DISTRICT  
STATE CAPITOL  
TOPEKA, KS 66612-1504  
913 296-7678  
5722 BIRCH  
ROELAND PARK, KS 66205  
913 831-1905



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: ECONOMIC DEVELOPMENT  
GOVERNMENTAL ORGANIZATION & ELECTIONS  
INSURANCE

Testimony Before  
House Labor and Industry Committee  
February 20, 1997

HB 2294 is designed to clear up a misunderstanding in the law. It occurs when property, not wages, is garnished. The judgement has been entered and the person holding the property must answer. This simple language just clarifies the relationship between the property holder and the defendant.

*Business, Commerce  
& Labor Committee  
2/21/97  
Attachment 3*



# Kansas Society of Certified Public Accountants

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460 / FAX 913-267-9278

February 21, 1997

## Testimony on HB 2217

Chairman Lane and members of the House Business, Commerce and Labor Committee.

I am T.C. Anderson, Executive Director of the 2,500 member Kansas Society of Certified Public Accountants. I appear before you today to request your favorable consideration of HB 2217.

This bill is supported by both the State Board of Accountancy and the Kansas Society.

The legislation will accomplish two things. First, it will change the current continuing education requirement of 40 hours a year to 80 hours every two years with a 20 hour minimum in each year. Secondly, beginning with license renewals in the year 2000, it will change the education reporting period from a two year period ending June 30 to a two year calendar period ending December 31. Our members in the Kansas City metro area like the December 31 date since it conforms to the Missouri deadline and many of them have dual licenses.

If passed, HB 2217 would allow Kansas to join 21 other states that have the 80 hour requirement. Only 10 currently have the 40 hour per year requirement. The balance have a 120 hour requirement over three years. In addition, the State Board is hopeful this change will cut down on the small number of CPAs who fail to meet the current requirement because they get fewer than 40 hours of education during the first year of the biennial renewal period.

Thank you for allowing me to appear today and I will stand for questions.

*Business, Commerce  
& Labor Committee  
2/21/97  
Attachment 4*