

Approved: 2/6/97
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 3:30 p.m.. on January 30, 1997 in Room 313--S of the Capitol.

All members were present except: Representative Carmody (excused)
Representative Gilmore (excused)
Representative Kline (excused)
Representative Mays (excused)
Representative Powell (excused)
Representative Presta (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee: Randy Harrell, Research Dir. Judicial Council
Gerald Goodell, Attorney, Goodell, Stratton, Edwards & Palmer

Others attending: See attached list

Minutes of 1-30-97

Vice Chair Representative Pugh called the meeting to order at 3:37 p.m.

A motion was made by Representative Howell and seconded by Representative Dahl to approve the minutes of January 21, and January 22, 1997. The motion carries.

Vice Chair Pugh asked for any bill requests, there were none offered. The Vice Chair introduced Mr. Randy Harrell, Judicial Council.

HB 2042: Fiduciary security transfers, tax obligations.

Mr. Harrell introduced Mr. Goodell, Attorney and member of the Kansas Judicial Council.

Mr. Goodell testified in support of **HB 2042**. The conferee stated that this bill will correct a problem concerning sale of stock by an executor during administration of an estate. The conferee stated under current law many transfer agents choose not to determine whether the transaction is "in accordance with the law" and choose to assume the lien continues to apply until such time as the Department of Revenue issues a consent to transfer or waiver. The conferee stated that many transfers which might be accomplished pursuant to law are delayed while the estate obtains a specific release from the Department of Revenue. The conferee stated that **HB 2042** will alleviate much of the confusion as to when a transfer is made in accordance with the law. The conferee stated that **HB 2042** will make a small change to the Uniform Act for the Simplification of Fiduciary Security Transfers. The conferee stated that the Department of Revenue supports this change. (Attachment 1)

A motion was made by Representative Swenson and seconded by Representative Adkins to pass **HB 2042** out of Committee and place it on the Consent Calendar. The motion carries.

There being no other business before the Committee, the Vice Chair adjourned the meeting at 4:00 p.m.

The next meeting is scheduled for February 3, 1997.

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KANSAS JUDICIAL COUNCIL TESTIMONY ON
House Bill No. 2042
by Committee on Judiciary
January 30, 1997

The Kansas Judicial Council supports the adoption of HB 2042 which will correct a problem concerning sale of stock by an executor during administration of an estate. Presently, K.S.A. 1996 Supp. 79-1569 provides that the inheritance tax lien:

". . . shall not affect any property after it has been sold or disposed of for value by the executors or administrators in accordance with law, and no consent to transfer issued by the director shall be required to release such lien, but in all such cases a lien shall attach to the proceeds . . ."

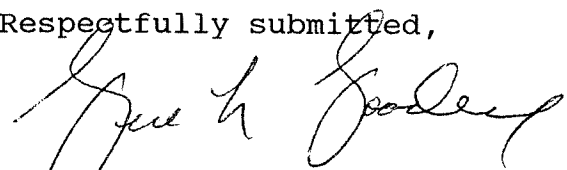
Many transfer agents take the position that they will not determine whether the transaction is "in accordance with the law" and choose to assume the lien continues to apply until such time as the Department of Revenue issues a consent to transfer or waiver. As a result, many transfers which might be accomplished pursuant to law are delayed while the estate obtains a specific release from the Department of Revenue.

HB 2042 should alleviate much of the confusion as to when a transfer is made in accordance with law. K.S.A. 17-4911 is a part of the Uniform Act for the Simplification of Fiduciary Security Transfers, an act which provides corporations and transfer agents with guidelines to follow when dealing with fiduciaries. The proposed amendment would affirmatively state that transfers made

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under the provisions of the uniform act are deemed to have been made in accordance with law for the purposes of the Inheritance Tax Act and, therefore, a corporation or transfer agent need not require that the estate obtain a consent from the Department of Revenue to transfer or waiver. This should simplify the sale of stock in an estate where the will gives the executor the power of sale or the court allows such a sale. The Department of Revenue has supported earlier versions of this bill in prior years.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gerald L. Goodell".

Gerald L. Goodell
Kansas Judicial Council Member