

Approved: 4/8/98  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 10:55 a.m.. on March 20, 1998 in Room 313--S of the Capitol.

All members were present except: Representative Kline (excused)  
Representative Mayans (excused)  
Representative Adkins (excused)  
Representative Krehbiel (excused)  
Representative Shultz (excused)  
Representative Wilk (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: David Debenham, Deputy Attorney General

Others attending: See attached list

The Chair called the meeting go order at 10:55 a.m. and opened the hearing on **SB 408**.

**SB 408:** Providing expedited process to review and determine validity of certain liens

Deputy Attorney General David Debenham testified in support of **SB 408**. The conferee stated that this bill is a result of a recommendation by the Special Committee on Judiciary. The conferee stated that the Committee's proposed legislation would provide an expedited process to review and determine the validity of alleged fraudulent liens without additional criminal and civil penalties. The conferee stated that the Attorney General had proposed criminal and civil penalties. (Attachment 1)

The Chair and Deputy A.G. Debenham discussed what crimes were considered by the Attorney General for additional penalties. The Chair stated that the reason the Special Committee on Judiciary decided not to go with penalties is because there has not been a significant increase in this type of crime in the state of Kansas.

During discussion, the Chair stated that many are discouraged from filing fraudulent liens because of the mortgage registration tax charged.

The Committee discussed the procedure for handling false liens. The Committee members discussed the reason for the form contained in the bill.

The Chair stated that during discussion of the Special Interim Judiciary Committee it was the consensus that an expedited lien release by a judge would correct false filings of liens. The false lien and the release would be filed together.

During Committee discussion about the language, Deputy A.G. Debenham stated that this bill was based on a Texas statute.

The Chair referred to written testimony provided by Ruth Shechter who is a member of the Policy Committee, Board of Directors of the Mainstream Coalition. Miss Shechter's testimony supports **SB 408**, but calls for the addition of civil or criminal penalties for fraudulent filings. (Attachment 2)

The Chair closed the hearing on **SB 408**.

Representative Powell made a motion, seconded by Representative Dahl to recommend SB 408 favorably and place it on the Consent Calendar. The motion carries.

The Chair announced the next week's agenda plans and adjourned the meeting at 11:20 a.m.

The next meeting is scheduled for March 23, 1998.

# COMMITTEE GUEST LIST

DATE: 3/20/98

NAME	REPRESENTING
<i>David Debenham</i>	<i>A.G. Office</i>
<i>Nancy Lindberg</i>	<i>A.G. Office</i>



State of Kansas

## Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215  
FAX: 296-6296  
TTY: 291-3767

STATEMENT OF  
DEPUTY ATTORNEY GENERAL DAVID B. DEBENHAM  
BEFORE THE HOUSE JUDICIARY COMMITTEE  
RE: SENATE BILL 408  
MARCH 20, 1998

Mr. Chairman and Members of the Committee:

I appear before you today on behalf of Attorney General Carla J. Stovall, to speak in support of Senate Bill 408. This bill will allow an expedited process to review and determine the validity of certain liens, which are alleged to be fraudulent.

Senate Bill 408 is the result of a recommendation by the Special Committee on Judiciary (Committee). This Committee conducted an inquiry into the situation of militia activities in Kansas with a view to determining whether there was a need for additional legislation.

Testimony was presented from a number of conferees regarding the activities of anti-government groups and so called common-law courts both within the State of Kansas and also acting outside the State of Kansas. The testimony of these individuals ranged from the issuance of bogus and fraudulent checks to filing and attempting to file frivolous liens. It was clear that the overwhelming intent of the individuals involved in these types of schemes was to harass and intimidate public officials by engaging in "paper terrorism." Although these groups lack any authority to issue or enforce the various orders, writs, liens and warrants, the impact of their actions clearly resulted in fear to the public officials and employees confronted by these groups. The threat to file such liens and the issuance of "court orders" by these groups are solely made with the intent to dissuade and harass public employees from doing their jobs. Testimony presented to the Committee revealed that there have been many threats to file liens in the State of Kansas but few liens have actually been filed.

A number of states found that their current criminal statutes did not directly address the activities of these groups. As a result criminal enactments have taken place in various states to attempt to deal with the conduct of these groups. These changes have not sought to infringe upon the First Amendment guarantee of freedom of speech. They do address the criminal activities of those individuals who seek to terrorize and intimidate public officials because of the performance of

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the official's duties.

Based on the concerns brought out during the hearings conducted by the Committee, the Attorney General drafted legislation that would have provided criminal and civil sanctions against those individuals who were engaged in filing or attempting to file fraudulent liens as well as providing an expedited court procedure for challenging and removing fraudulent liens on real or personal property.

The recommendation of the Committee was to propose legislation that would provide an expedited process to review and determine the validity of alleged fraudulent liens. It also appears that it was the Committee's finding that legislation providing additional criminal and civil penalties was not needed at this time.

Attorney General Stovall wholeheartedly supports Senate Bill 408. This legislation will provide a cost-effective means for the citizens of the State of Kansas to contest a fraudulent lien that has been filed on their real or personal property.

In addition, should existing criminal penalties and civil sanctions prove ineffective in deterring this type of conduct, the Attorney General stands ready to provide additional legislation to address these concerns.

On behalf of Attorney General Stovall, I would urge your favorable consideration of Senate Bill 408.

RUTH G. SHECHTER  
5723 WINDSOR DRIVE  
FAIRWAY, KANSAS 66205-3342  
(913) 362-5626 - FAX- DIAL NUMBER & PRESS \*51  
e-mail- nateruth@coop.crn.org

March 18, 1998

Testimony in favor of SB408

To: House Judiciary Committee, Chair, Rep. Carmody and Members  
Presta, Adkins, Dahl, Gilmore, Howell, Kline, Mayans, Mays, Powell,  
Schultz, Swenson, Wilk, Garner, Haley, Kirk, Keline, Krehbiel,  
Pauls, Ruff, Shriver

I am Ruth G. Shechter, a resident of Fairway, Kansas, and a member of the Policy Committee, Board of Directors of the Mainstream Coalition. The Coalition has a membership of 2,000 citizens, representing a broad political spectrum in Kansas, Republican, Democrat, Independent and other voters.

The Mainstream Coalition is in complete support of SB408; however, we would like to see one addition- and that is to include civil or criminal penalties for fraudulent filings. We firmly believe that if filings of bogus claims are fraudulent, as SB408 states they are, persons who submit such filings should be charged with fraud and civil or criminal penalties must be levied.

Penalties are relevant and necessary. Ever since the April 1995 bombing in Oklahoma City, so-called patriot militias have bombarded the courts with bogus liens. While these filings are in and of themselves not violent acts, the fact that armed militias have taken unto themselves the 'authority' to enforce these liens, violent action could result. Death threats have been received by officers of the courts. These groups have no legal authority to enforce these liens - and, illegal acts must result in civil and/or criminal penalties. SB408 without penalties is a toothless tiger, and certainly constitutes no deterrent to bogus filings, lacking penalty clauses.

Because the judge in each filing must review it to determine its' status, it is logical to anticipate that courts could be inundated with filings, resulting in judges having to spend the bulk of their time on reviews. Given the litigious nature of our society, unlimited and undeterred bogus liens could, foreseeably, totally hamstring the court system. In the long term there could be a breakdown of the judicial system, giving bogus claims filers carte blanche to destroy this government. This in my view is their purpose and constitutes outright treason, contrary to the claims of the so-called patriots who charge that the lawful courts and indeed this government, are themselves treasonous.

We strongly urge you to add penalties to SB408 and adopt the strengthened bill forthwith.

Thank you for the opportunity to address you.

*Ruth G. Shechter*

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Attachment 2