

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:08 a.m. on March 6, 2001 in Room 521-S of the Capitol.

All members were present

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

Conferees appearing before the committee: Rep. Larry Campbell
 Karen France, Kansas Assn. of Realtors
 Janet Stubbs, Kansas Building Industry Assn.

Others attending: See attached list

Rep. Ballou made a motion to approve the minutes of March 1, 2001, as written. Rep. Beggs seconded the motion. The motion carried.

Hearing on: HB 2498 - Disclosure of special assessments to real property.

Rep. Larry Campbell appeared before the committee as a proponent of the bill. He explained that many home buyers are not aware of the assessment until they are given a preliminary title policy at loan closing. By that time, many buyers are past the point of no return, their existing home is sold and they only have a number of days to move. This is a big problem in Olathe, where he is the mayor. The bill would require the seller to disclose to the buyer that special assessments for improvements are pending. (Attachment 1) Rep. Campbell concluded his testimony by answering questions from the committee.

Attached to his testimony are e-mails from Donald R. Seifert, Policy Development Leader and Myles Bancroft, a new home owner in Olathe, Kansas, who are proponents of the bill.

Karen France, Director of Governmental Relations, Kansas Association of Realtors, voiced some of their concerns about this legislation. The biggest concern being the ability of sellers to comply with the law. (Attachment 2)

No others were present to testify for or against the bill, and Chairman Lane closed the hearing on **HB 2498**.

Janet Stubbs, Kansas Building Industry Association, appeared before the committee to invite the committee to visit their facility to try out the Physical Capacity Profile Testing System for post-hiring testing. The testing helps determine if employees are physically matched for a particular job. If a person is physically matched to a job, it will cut down the risk of injury, thus reducing the number of workers compensation claims and related premiums. (Attachment 3)

Chairman Lane adjourned the meeting at 10:04 a.m. The next meeting will be announced.

HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE
GUEST LIST

DATE: March 6, 2001

NAME	REPRESENTING
KAREN FRANCE	KS ASSN. OF REALTORS
BILL YANEK	KS Assn of Realtors
Erik Sartorius	K.C. Regional Assoc. of Realtors
JANET STUBBS	Ks. Bldg. IND. ASSN.

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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 VICE-CHAIR LOCAL GOVERNMENT
 MEMBER APPROPRIATIONS
 TOURISM
 PUBLIC SAFETY BUDGET
 CORRECTIONS & JUVENILE JUSTICE

TESTIMONY ON HB 2498
 BY
 REPRESENTATIVE LARRY CAMPBELL
 MARCH 6, 2001

In the State of Kansas, a land owner can petition a local municipality to perform infrastructure improvements (streets, sidewalks, etc.) The cost of those improvements become a special assessment on the land.

Soon after approving the improvement and special assessment, the local unit of government records the special assessment with the county register of deeds, and work begins on the improvements.

The improvements are completed and homes and lots are sold. At this point, it seems to me that the seller is obligated to disclose the pending assessments to the buyer prior to the buyer signing a purchase contract. If the disclosure is not made at this time, then many times the buyer is not aware of the assessment until they are given a preliminary title policy at loan closing. By that time, many buyers are past the point of no return, their existing home is sold and they only have a number of days to move.

HB 2498 would require the seller to disclose to the buyer that special assessments for improvements are pending. During the contract process, the seller would obtain a signed statement acknowledging the disclosure.

House Business, Commerce & Labor Committee

3-6-01

Attachment 1

Assessment Process

1. Landowner or owners petition local unit of government for improvements.
2. Petition is approved.
3. Resolution is recorded with county.
4. The improvements are made.
5. Lots/homes begin to sell.
6. Final project costs are received.
7. Hearing is held.
8. Total assessment is certified to the county.
9. Assessment shows up on next tax cycle.

Sample of Disclosure

Special assessments are pending on this property.

_____	_____
Buyer Acknowledgement	Date
_____	_____
Buyer Acknowledgement	Date

TO: Members of the House Business, Commerce, and Labor Committee

FROM: Donald R. Seifert, Policy Development Leader

SUBJECT: **HB 2498;** Notification of Pending Special Assessments

DATE: March 6, 2001

On behalf of the city of Olathe, thank you for the opportunity to comment in support of this bill. HB 2498 is a relatively simple bill that would require sellers of real property to provide written disclosure of existing or proposed special assessments affecting a piece of real estate. The disclosure would be provided prior to execution of a sales contract. The bill would address a common problem in local government: a roomful of upset property owners at a city council hearing on the levying of special assessments for a public improvement stating that "no one told me about this assessment when I bought the property." In Olathe, where developers routinely petition for benefit district improvements well in advance of the first homes in a subdivision, this unfortunate situation happens all too often.

The city of Olathe, like many Kansas communities, regularly uses the general improvement and assessment statute at K.S.A. 12-6a01 *et seq.* as a tool to encourage and promote development in the city. Benefit districts may be used to finance roads, water mains, sewers, and other public infrastructure that makes up the fabric of a growing community. Once the improvement is constructed, special assessments are then levied against real estate parcels receiving a benefit from the improvement, generally on a pro-rated square foot basis. Once levied, the property owner may pay off the assessment, or pay it in installments over the life of the general obligation bonds issued to finance the improvement.

This system generally works well unless the landowner(s) that petitioned for the original improvement have sold or subdivided property in the benefit district to new owners. In particular, this often happens with arterial street improvements that have a significant time lag between creation of the district and final assessment. By then, an entire subdivision of new homeowners may be in place that receive notice to attend an assessment hearing they knew nothing about. Although notice of a pending assessment may be included in the owner's title insurance policy, often these notices are overlooked or not understood. The city regularly provides special assessment information to anyone

that asks, but not all buyers know to ask.

HB 2498 would provide an additional notification to real estate buyers early in the purchase process. The city believes this is good public policy, and will not be an unreasonable burden on the real estate or development community. The city of Olathe urges the committee to recommend this bill favorably for passage.

From: <Myles.Bancroft@ChoicePointInc.com>
To: <campbell@house.state.ks.us>
Date: Mon, Mar 5, 2001 7:57 AM
Subject: Bill #2498 (Special Benefit Districts)

Mr. Campbell:

Thanks so much for notifying me about the hearing on this bill. Unfortunately, I will be in Atlanta on business Tuesday, March 6th. Otherwise, I would have gladly come to Topeka to speak on this matter.

First of all, I understand that Johnson County and other areas in the Kansas City metro area are in an extreme growth mode. My wife and I moved to Olathe from South Carolina just one year ago and were immediately impressed by the way the community has planned for growth by building wide roads with multiple turn lanes as well as sidewalks that will accommodate both runners and bikers.

We purchased a home below 151st Street, in an area that was newly developed. Little did we know that the subdivision we had bought in was part of a Benefit District. No one told us - not the developer, not the developer's real estate agent, not my real estate agent (who was probably the LEAST likely to know about the tax.) About a month ago, I received a letter from the City of Olathe telling me that I now owed around \$1,800 - my portion of the benefit district cost. As you can imagine, I was stunned. Soon my neighbors began to ask me about the assessment. Apparently, all of them had received the same letter - unfortunately, none of them had been notified of the impending tax either.

I quickly looked at my Title Insurance. Sure enough, there was a notation about the benefit district in my policy. They had caught it but keep in mind that I didn't get my Title Insurance Policy for almost 30 days AFTER I closed on my home. It came in the mail.

As you know, we had a public hearing about this particular benefit district last month. Hours passed as one homeowner after another stood up to protest this action. In fact, prior to our hearing, the city council voted on establishing another benefit district around 159th. That deal was done in about 45 seconds - one that will some day impact other homeowners who have trustingly moved into your community.

Mr. Campbell, I understand that your pending bill is to require proper disclosure regarding benefit districts by sellers prior to sale. I would like to see you take it one step further. In my case, the developer was the one who requisitioned the benefit district. Why not make him carry the cost? I am certain that it would be tacked on the price of the home but how much better disclosure could you ask for? It seems like the developers in Johnson County want it both ways - they want to call the tune but they don't want to foot the bill.

During our meeting last month, a number of excellent suggestions came up on how to correct the current problems caused by benefit districts. Some went to escrowing the money as lots or homes were sold. Others suggested a more equitable way to pay for growth, such as grandfathering the older

neighborhoods of Olathe from Growth Taxes.

Irrespective of how we deal with this problem, it needs to be dealt with. There a feeling by some members of your constituency that the Special Benefit District laws are on the books to protect the Developers. I understand that the Construction Lobby is substantial. It is the private citizen who suffers, though. I'd ask the question - who are the City Councils and State Legislatures there to represent? Is it the developer or those who have taken the decision to live in Kansas and to pay our hard earned tax money to this state?

Thank you for your help on this matter. I am grateful that you were willing to bring this bill up for consideration. If I can be of further assistance, please don't hesitate to call on me. Regards.

Myles Bancroft
15401 S. Constance
Olathe, KS 66062
913-768-9380

DEVELOPER/BUILDER DISCLOSURE

IN THIS DISCLOSURE: _____ is referred to as "we", "us", and "our"; the buyer is referred to individually and collectively as "you" and "your"; the subdivision known as _____, platted as _____, and recorded as of the below date, is referred to as the "subdivision"; and the lot to be purchased by you is referred to as "your lot" or "the lot".

1. These disclosures relate only to the subdivision, and not to any other property in the vicinity of the subdivision. Zoning and other land use requirements vary from property to property and change from time to time. If you have specific questions about zoning or land use in Sedgwick County, you may contact the Metropolitan Area Planning Department at (316) 268-4421. If the property is located in the jurisdiction of a City or County other than Wichita or Sedgwick County you should contact the respective City or County offices for information.

2. Your lot is subject to recorded covenants and restrictions which will affect your use of the lot. You should read those covenants and restrictions carefully, and you are encouraged to seek legal counsel so that you completely understand them. By signing this Disclosure, you agree that you have received a copy of the covenants and restrictions.

3. Your lot may be subject to special assessments. Special assessments are a financing tool used to finance the construction of infrastructure improvements such as streets, storm sewers, sanitary sewers, etc. The accuracy of our estimate of the amount of special assessments will depend upon such factors as any difference between the engineering cost estimates and the actual cost of construction, the prevailing interest rates at the time the bonds are sold to raise revenue for the improvements, and any changes in the number or scope of the improvements. We have made a good faith effort to estimate that special assessments on your lot for the following (checked below) as:

- street paving storm sewer sanitary sewers water lines

will be approximately \$ _____ per month payable for a period of _____ months. We cannot guarantee the accuracy of this estimate. It is also possible that there may be future special assessments on the lot. However, as of _____ (date), no other petitions for improvements that may result in additional special assessments had been filed. If the property is located in the jurisdiction of a City or County other than Wichita or Sedgwick, you should contact the respective City or County Engineers office for information. The number for the City Engineer for the City of Wichita is (316) 268-4501. The number of the Sedgwick County Engineer is (316) 383-7901.

4. We have prepared and filed a drainage plan for the subdivision. The purpose of this plan is to help protect you and your neighbors from excessive surface water during normal rainfalls. You must not alter your lot in such a way as to conflict with the drainage plan or the purpose of the drainage plan. The drainage plan can be inspected at the City of Wichita or Sedgwick County Engineer's office. If the property is located in the jurisdiction of a City or County other than Wichita or Sedgwick County, you should contact the respective City or County offices for information as to what is required and what information is available from them.

5. Every lender writing mortgages on buildings must show on a Federal Emergency Management Agency (FEMA) form whether or not the property is in a Special Flood Hazard Area mapped by the applicable Flood Insurance Rate Map (FIRM). Lenders usually rely on private companies to make those "determinations" and those companies are located elsewhere. Because of that, and the fact that the determination must be made on the basis of the FIRM, regardless of local conditions which would make the property not subject to flooding from the FEMA Base Flood, if the determination is that the property is in a Special Flood Hazard Area the lender must require that the buyer carry the federally subsidized flood insurance.

If it can be proven, by professional certification, that the property is naturally above FEMA's Base Flood Elevation, an Application for Letter of Map Amendment may be filed with FEMA and, if approved, the flood insurance premium will be refunded.

6. We have established reserve areas in the subdivision. These reserve areas may in the future be devoted to other uses.

7. You may determine the school district in which the lot is located by calling the Kansas State Board of Education (913) 296-3201.

8. The developer of this property has signed an agreement with the City of Wichita consenting to the annexation of this property by the City of Wichita at such time as it becomes eligible for annexation under K.S.A. 12-520 (generally when the city limits of Wichita touch or abut your platted subdivision or other platted subdivisions which touch or abut yours).

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THIS DISCLOSURE.

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TO: HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE

FROM: KAREN FRANCE, DIRECTOR OF GOVERNMENTAL RELATIONS

DATE: MARCH 6, 2001

SUBJECT: HB 2498, REQUIRING SELLERS DISCLOSURE

The Kansas Association of REALTORS® has concerns about this legislation. We fully appreciate the frustration and concerns that brought about the introduction of the bill. However, we are concerned about the ability of sellers to comply with the law.

The language of the bill is as follows:

(b) Prior to entering into a contract for the sale of any real property which is subject to a special assessment or fee pursuant to this act or to K.S.A. 12-601 et seq., and amendments thereto, the seller of the property shall obtain a written acknowledgment from the buyer that the buyer is aware of such assessments and fees or that the property is located in a district in which the buyer may become liable for such fees in the future.

Timing: If this becomes law, the seller must get a written acknowledgment from the buyer that they have been made aware of the assessments. This may be difficult to get, given that, typically, a buyer submits an offer to the seller without having had any prior contact with the seller. How is the seller supposed to get this acknowledgement in front of the buyer and get them to sign it before they even sign a contract?

Content: The buyer is supposed to be told not only of the existence of the special assessments and fees from the special benefit district, but also of any special assessment for which they may become liable in the future. How far into the future? What if the special benefit district is created after the buyer purchases the property? Is the seller going to be held responsible for districts that are not in existence?

Enforcement: Who is going to enforce this--the city, the county? Will cities and counties be forced to hire personnel to go out and look over the shoulders of sellers to make sure they are doing this--and doing it at the right time? If you sold your own home and you were not sitting on this committee, would you know that you had this obligation?

Currently, a title insurance policy discloses whether a property is located within the boundaries of any special tax assessment districts. This is same way that buyers are made aware of any liens, easements, or any other encumbrances on the property. Why should special assessments be treated any differently? Buyers have a responsibility to inform themselves of all of the facets of their real estate transaction. If they don't understand the contents of their title policy, they can ask the title company for further clarification.

Once again, we fully appreciate the frustration and concerns that brought this bill to you. We are concerned about the ability of citizens to comply.

Thank you for the opportunity to testify.

House Business, Commerce & Labor Committee

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Attachment 2

A.M. Best, Continued from Page 24

sell a portion of their personal and standard commercial insurance online, either directly or in partnership with value-added agents.

10) Consolidation and market withdrawals heat up. A.M. Best stands by our 1998 forecast that roughly one-third of the 1,210 insurance groups active at that time remain "at risk" of losing their operating autonomy or withdrawing from the market by 2003.



Personal Lines

Company Name	Overall Effect	Date Effective	Company Name	Overall Effect	Date Effective
Automobile			Motor Cycle		
Country Mutual Insurance Co.	+7.4%	2/1/01	GuideOne Specialty Ins. Co.	-1.25%	2/2/01
Country Preferred Insurance Co.	+6.9%	2/1/01	Markel American Ins. Co.	-3.8%	2/1/01
Country Casualty Insurance Co.	+8.5%	2/1/01	Personal Property		
National General Assurance Co.	-1.1%	1/18/01	American Modern Home Ins. Co.	+6.14%	2/1/01
Dwelling Fire			Colonial Penn Franklin Ins. Co.	+6.7%	2/19/01
Buckeye State Mutual Ins. Co.	+6.6%	3/1/01	Colonial Penn Insurance Co.	+3.0%	2/19/01
Patrons Insurance Company	+10.0%	4/1/01	Metropolitan Group Prop. & Cas.	+4.9%	2/15/01
Homeowners					
Alliance Insurance Company	-3.3%	2/1/01			
Liberty Mutual Fire Ins. Co.	+7.0%	1/15/01			

Commercial Lines

Company Name	Overall Effect	Date Effective	Company Name	Overall Effect	Date Effective
Automobile			General Liability cont.		
American National Fire Ins. Co.	+23.0%	3/30/01	American National Fire Ins. Co.	+2.0%	5/1/01
Agricultural Insurance Co.	+23.0%	3/30/01	Great American Ins. Co.	-20.0%	5/1/01
American Alliance Ins. Co.	+23.0%	3/30/01	Workers Compensation		
Continental Western Ins. Co.	+13.3%	4/15/01	American & Foreign Ins. Co.	+9.9%	1/1/01
Cornhusker Casualty Co.	+22.0%	1/15/01	California Indemnity Ins. Co.	+12.9%	1/1/01
Federated Mutual Ins. Co.	+2.8%	2/1/01	Charter Oak Fire Ins. Co.	+11.4%	1/1/01
Federal Service Ins. Co.	+2.8%	2/1/01	Commerce and Industry Ins. Co.	+15.0%	1/1/01
Graphic Arts Mutual Ins. Co.	+10.0%	4/1/01	Commercial Casualty Ins. Co.	+5.0%	1/1/01
Great American Insurance Co.	+23.0%	3/30/01	The Connecticut Indemnity Co.	+9.9%	1/1/01
Oak River Insurance Co.	+9.3%	1/15/01	Employers Ins. of Wausau	+13.9%	1/1/01
Republic-Franklin Ins. Co.	+10.0%	4/1/01	Fire & Casualty Ins. Co. of CT	+9.9%	1/1/01
Utica Mutual Insurance Co.	+10.0%	4/1/01	Florida Mutual Ins. Co.	+3.1%	1/1/01
Utica National Assurance Co.	+10.0%	4/1/01	Globe Indemnity Co.	+9.9%	1/1/01
Crime			Highlands Insurance Co.	+5.0%	1/1/01
American & Foreign Insurance Co.	-2.9%	1/1/01	Northwestern National Co.	+5.0%	1/1/01
Globe Indemnity Company	-2.9%	1/1/01	Northwestern National Casualty	+5.0%	1/1/01
Royal Insurance Company of Amer.	-2.9%	1/1/01	Petrosurance Casualty Co.	+13.6%	1/1/01
Royal Indemnity Company	-2.9%	1/1/01	Royal Indemnity Co.	+9.9%	1/1/01
Safeguard Insurance Company	-2.9%	1/1/01	Safeguard Insurance Co.	+9.9%	1/1/01
General Liability			Security Ins. Co. of Hartford	+9.9%	1/1/01
Agricultural Ins. Co.	-8.7%	5/1/01	Travelers Casualty & Surety	+11.4%	1/1/01
American Alliance Ins. Co.	+8.0%	5/1/01	Travelers Indemnity Co. of CT	+11.4%	1/1/01
			Wausau Business Ins. Co.	+21.5%	1/1/01
			Wausau Underwriters Ins. Co.	+24.2%	1/1/01