

MINUTES OF THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 P.M. on January 31, 2006 in Room 519-S of the Capitol.

All members were present except:

Representative Barbara Craft- excused
Representative Oletha Faust-Goudeau- excused

Committee staff present:

Mike Heim, Legislative Research Department
Martha Dorsey, Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Rep. Mario Goico
Jeff Hudson, KS. Assoc. Of Fire Chiefs and Johnson Co. Fire Chiefs Assoc.
Lawrence Garcia, Fire Chief, City of Wichita
Bud Hentzen, Hentzen Contractors, Inc.
Rachel Rubin, Cedar Shake & Shingle Bureau

Others attending:

See attached list.

Bill Introductions

Chairman Vickrey requested a committee bill on behalf of Rep. Hayzlett relating to the unification of the City of Tribune and Greeley County.

Without objection, the request will be accepted as a committee bill.

Chairman Vickrey requested a committee bill on behalf of Rep. Holmes relating to planning and zoning requirements.

Without objection, the request will be accepted as a committee bill.

Rep. Holland requested a committee bill relating to paper verification for electronic voting machines.

Without objection, the request will be accepted as a committee bill.

Rep. Sawyer requested a committee bill relating to improvement districts.

Without objection, the request will be accepted as a committee bill.

Rep. Swenson requested a committee bill relating to tax abatements, industrial bonds, and campaign finance.

Without objection, the request will be accepted as a committee bill.

Chairman Vickrey opened the hearing on:

HB 2676 Restrictive covenants; wood shingles

Rep. Goico testified in support of the bill (Attachment 1). He explained that Home Owners Association covenants would be revised to allow for the use of new roofing materials.

Jeff Hudson, Fire Chief, City of Shawnee, testified in support of the bill (Attachment 2) on behalf of the Kansas State Association of Fire Chiefs and the Johnson County Fire Chiefs Association. He explained that passage of the bill would give the residents of our State a choice about their own safety, the safety of their

CONTINUATION SHEET

MINUTES OF THE House Governmental Organization and Elections Committee at 3:30 P.M. on January 31, 2006 in Room 519-S of the Capitol.

families, and the safety of the property in which they have so much invested.

Lawrence Garcia, Fire Chief, City of Wichita, testified in support of the bill (Attachment 3). He stated that fire professionals believe that any restrictive covenant which requires the use of Wood Shingles or Wood Shake Shingles has the unintended potential for risking property of the citizens of the State of Kansas due to the ravages of accidental fires.

Bernard Hentzen, Hentzen Contractors, Inc. testified in support of the bill (Attachment 4). He had served as a President of a homeowners' association that had a covenant that all new or replacement roofs must be shake shingles. He explained that a change to allow something other than shake shingles to be used was necessitated when some insurance companies were limiting their obligation on this type of exposure.

Written testimony in support of the bill (Attachment 5) was submitted by Tim Millspaugh, Sedgwick County Fire Marshall.

Rachel Rubin, representing Cedar Shake and Shingle Bureau, testified in opposition to the bill (Attachment 6). She emphasized that the proposed legislation would override existing private contracts and attempt to enforce subjective standards, such as which materials qualify as being "similar in appearance" to wood.

Chairman Vickrey closed the hearing on **HB 2676**.

HB 2676 **Restrictive covenants; wood shingles**

Rep. Frank Miller made a motion for the favorable passage of HB 2676. Rep. Sawyer seconded the motion. Motion carried.

Approval of Minutes

Rep. Swenson made a motion to approve the minutes of the January 26, 2006 meeting. Rep. Melody Miller seconded the motion. Motion Carried.

Chairman Vickrey adjourned the meeting.

The next meeting is scheduled for Thursday, February 2, 2006.



MARIO GOICO
REPRESENTATIVE, 100TH DISTRICT
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: FINANCIAL INSTITUTIONS
GOVERNMENTAL ORGANIZATION
AND ELECTIONS
HEALTH AND HUMAN SERVICES
TAXATION
KANSAS SECURITY

Testimony on HB 2676
House Governmental Organizations and Elections
January 31, 2006

Chairman Vickrey and Members of the Committee

House Bill 2676 will revise Home Owners Association covenants to allow for the use of new roofing materials.

In the interest of protecting the aesthetic and economic health of their communities, many home owners associations require the use of wood shake shingles. In past decades (1970s), wood shake shingles were manufactured using the aged wood of adult cedars. This is no longer the case. Presently, many wood shake shingles are created using the wood of young cedars. These shingles are of a poorer quality than their predecessors and are susceptible not only to fire, but to mold and other forms of decay as well. Due to their highly flammable nature and their vulnerability to rot, wood shake shingles pale in comparison to shingles made of composite materials. In other words the nature of the material has changed from the time that the covenants were established. Composite shingles resemble wood shake shingles but are less vulnerable to fire and rot. In the interest of our citizens' safety, we have an obligation to address this issue in the legislature.

I request that you pass this bill favorably.

House Gov. Org. & Elections
Date: 1-31-2006
Attachment # 1

House Bill 2676
Testimony of Jeff Hudson
Kansas State Association of Fire Chiefs
And
Johnson County Fire Chiefs Association

The Kansas State Association of Fire Chiefs (KSAFC) and the Johnson County Fire Chief's Association (JCFCA) appears today in support of Bill 2676 related to making restrictive covenants that require the use of wood shake or similar material in the roof of any building unenforceable.

My name is Jeff Hudson, and I am the Fire Chief in the City of Shawnee Kansas. Let me begin by expressing my thanks for the opportunity to appear before you today in support of House Bill 2676. I am both honored and humbled to be asked to provide this testimony to you today on behalf of my peers, the Kansas State Association of Fire Chiefs (KSAFC), and the Johnson County Fire Chief's Association (JCFCA).

The Fire Service throughout the State of Kansas is very interested in, and believes in, this very important piece of legislation for obvious reasons. It has long been a known fact by the Kansas Fire Service, that there is a significantly increased risk to life safety and property damage from a fire involving wood roof coverings, such as wood shakes and wood shingles, than there is from less combustible alternative roof covering materials.

This is in no way to say that we believe that wood roof coverings are responsible for fires starting, or that we believe that they are ticking time bombs waiting to go off. The simple fact is that they are wood and wood burns.

I was discussing this issue the other day with a representative of a wood roof covering association here in Kansas, and I was asked if I could support my opinion on this issue with either a written study, or some other type of data. My response, when asked that question, was this. I am certain that somewhere out there that that data exists, or those studies have been authored, however, my position on this issue comes from neither any collected data, or from a formally prepared study. My steadfast position on this issue is a result of my thirty years in the fire service, responding to and fighting roof fires in the community where I live and work. My position on this issue is not unlike that of other Fire Service Professionals throughout the State of Kansas, of whom I represent today.

The Fire Chiefs from throughout the State of Kansas are not before you today, to give testimony to you, or to leave you with the impression, that we feel that wood roof products should be not be allowed. Instead, we support House Bill 2676 because, if passed, it would give the residents in our State, the people whom we protect, a choice about their own safety, the safety of their families, and the safety of the property in which they have so much invested.

The members of the KSAFC and the JCFCA believe in, and support, House Bill 2676. We truly believe that if passed, the residents and homeowners in the state of Kansas would safely benefit from the choice provided to them by this legislation.

Jeffery L. Hudson
Kansas State Association of Fire Chiefs
Johnson County Fire Chief's Association

House Gov. Org. & Elections
Date: 1-31-2006
Attachment # 2

HOUSE BILL No. 2676

Committee on Governmental Organization and Elections January 31, 2006

**Supporting Statement By:
Fire Chief Lawrence D. Garcia,
Wichita Fire Department**

Many of us at the highest level of the Fire Profession have spent an inordinate amount of time attempting to initiate the elimination of, or at least to diminish some of the traditions of our profession. This effort is made in our attempts to make a direct impact on the loss of life and property due to fires.

For years now we have anguished over the fact that as a major industrialized nation, we continue to suffer too many deaths and injuries as the result of fires; to say nothing at all about the tremendous economic loss of commercial and residential properties that we experience, as well.

Long ago, most of us came to the realization that there are **“NO NEW WAYS THAT FIRES START.”** However, there is an unbelievable and undeniable factor that many of us anguish over, and that is the fact that not all fire professionals are totally dedicated to the concept of **“Fire Prevention as the First Line of Defense”** for our communities. We believe that the passage of this legislation will prevent fires.

Often when it comes to residences, **OUR HOMES**, fire safety codes and/or new technologies for single-family dwellings have been ridiculed as nothing but unnecessary, expensive, and at best, simple intrusion into what is often characterized as “man’s castle.” Within the past two decades many of us spent nearly half of that time walking the halls of this capital building in our attempts to pass legislation for a statewide statute that would require the installation of **SMOKE DETECTORS** in single family dwellings. We knew then and it has been proven hundreds of times since the passage of that legislation, that **SMOKE DETECTORS CAN AND DO SAVE LIVES.**

We also believe that any restrictive covenant which requires the use of **Wood Shingles** or **Wood Shake Shingles** have the **UNINTENDED** potential for risking property of the citizens of the state of Kansas, due to the ravages of accidental fires.

For that reason, I respectfully recommend that this committee unanimously pass House Bill No. 2676

House Gov. Org. & Elections
Date: 1-31-2006
Attachment # 3



HENTZEN CONTRACTORS INC.

House Bill No. 2676

January 31, 2006

I am Bud Hentzen from Wichita, Kansas. I started Hentzen Contractors Inc. some 43 years ago. HCI is still operating today under the supervision of my two oldest sons. Since our beginning, we have specialized in performing repairs on fire and storm damaged homes and commercial buildings. We still do these types of repairs today.

When this bill was announced, I thought we might provide some information on the restrictions proposed in this bill. Some eight years ago while I was President of a homeowners' association that had a covenant that all new or replacement roofs must be shake shingles, there was a serious discussion about this restriction. Some insurance companies were limiting their obligation or cost of repairs on this type of exposure. Some, I believe, were even refusing to insure homes with these types of covenants. After all was said and done, the proposed change was made to allow something other than shake shingles to be used on these roofs.

During the 43 years of our business, there have been many new environmental restrictions put on the use of certain hazardous building materials such as lead paint, asbestos siding and certain types of insulation materials. These restrictions were good and necessary even though they violated some existing covenants and specifications. They were put there for protection of the common good.

In summary, I am in favor of Bill 2676 and will answer questions if you have any.

Bernard A. (Bud) Hentzen

House Gov. Org. & Elections
Date: 1-31-2006
Attachment # 4



**SEDGWICK COUNTY, KANSAS
FIRE DISTRICT #1**

Fire Chief Gary E. Curmode

**Fire Marshal
Tim W. Millspaugh**

**Deputy Chief of Operations
Rick Brazill**

4343 N. WOODLAWN * WICHITA, KANSAS 67220 * TELEPHONE: (316) 744-0471 * FAX: (316) 744-0944

**WRITTEN TESTIMONY
In Support of HB 2676
Certain Restrictive Covenants
By Tim W. Millspaugh
Governmental Organization and Elections Committee
January 31, 2006**

The Sedgwick County Fire Marshals Office is in favor of passing House Bill 2676. Provisions or restrictive covenants that require the use of wood shingles have a documented history of causing unnecessary and excessive damage to homes in a neighborhood type setting.

There are many alternatives in the roofing market that are either very fire resistive or completely non-combustible such as asphalt composition, concrete, or tile type roofing materials.

It is accepted and expected that we will have house fires as long as homes are made of wood and have combustible furnishings, but in a neighborhood of closely spaced homes with wood covered roofs it is much more likely that fire departments will be faced with multiple burning structures.

Two hundred years ago entire cities or villages would burn because of wood or thatch type roofing material, these fires were very common. Eventually materials were developed and codes were enacted to remediate this problem but we still make a common practice of using the same roofing material that we did many years ago.

Therefore we are very much in favor of supporting House Bill 2676.

Sincerely,

Tim Millspaugh
Sedgwick County Fire Marshal

House Gov. Org. & Elections
Date: 1-31-2006
Attachment # 5



Cedar Shake & Shingle Bureau
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Statement of Rachel B. Rubin
Attorney for the Cedar Shake & Shingle Bureau
Governmental Organizations & Election Committee
2006 House Bill 2676
January 31, 2006

Honorable Chairman and Members of the Committee:

I am here today as the Kansas attorney for the Cedar Shake & Shingle Bureau ("CSSB"). CSSB was founded in 1915 and is the not-for-profit trade association dedicated to supporting top quality Certi-label™ cedar shakes & shingles in the United States and Canada. CSSB represents hundreds of cedar shake and shingle manufacturers, distributors, wholesalers, brokers, retailers, approved installers and other professionals.

Fire safety is an important public policy concern. However, the simplest and most direct way to address the issue is for municipalities to amend their local building codes to require the use of fire-resistance rated roofing systems. Unfortunately, there are some common misconceptions about wood roofs and fire safety. Cedar shakes and shingles can qualify for the *exact same* fire resistance ratings as other roofing materials, and therefore, it is important to distinguish between rated and unrated roofing systems.

What HB 2676 would do is override existing private contracts and attempt to enforce subjective standards, such as which materials qualify as being "similar in appearance" to wood. Further, HB 2676 would impose additional costs of enforcement on the State, as well as create ambiguity and subjectivity in its interpretation and enforcement. Homeowners should have the freedom to choose the type of roofing material they use and to determine the appearance of their own neighborhoods.

Instead, a simple amendment of local building codes would accomplish the purpose of fire safety, which is preferable to overriding numerous existing private contracts in Kansas. We respectfully submit that the State of Kansas should not favor one building material over another, or target a material that satisfies objective public safety criteria.

Fire Resistant Roofing Classification Systems

Any type of roofing product can qualify as a Class A, B or C roofing system so long as the product meets certain fire resistance testing standards that are established by

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Cedar Shake & Shingle Bureau
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independent testing laboratories such as Underwriters Laboratories and ASTM. Cedar shakes and shingles are available in pressure impregnated, fire retardant Class A, B and C roofing systems. Certi-label™ products undergo pressure injection at the factory, where fire retardant treatment is forced into the cells of the wood and kiln-dried to solidify and lock in the fire protection. The A, B and C classifications are exactly the same for all roofing materials, including composition, tile, metal and concrete. In other words, there is no distinction between a Class A wood roofing system and a Class A composition or concrete roofing system. (Class A is the highest designation of fire resistance available.)

Hail and Wind Resistance

Cedar roofing is also very resistant to hail damage. Impact resistance testing under the UL-2218 testing standard shows minimal impact on Certi-label™ products. As a result, Certi-label™ product manufacturers can offer Class 3 and Class 4 designations. Class 4 is the highest impact resistance rating one can obtain, whether the product is wood, asphalt, metal, concrete or tile. Further, it is easier to replace a few shakes or shingles without having to match color lots or worrying about chipping, peeling of surface coatings. There are no artificial layers that can delaminate in freeze-thaw cycles.

Research in wind tunnels with winds exceed 130 miles per hour has proven the durability of cedar roofing in hurricane conditions. After Hurricane Andrew hit southern Florida in 1992, code officials quickly enacted code amendments for roofing structures, essentially ensuring that all roofs pass wind test criteria. Test results and a certificate of competency prove that Certi-label™ shakes and shingles are among the products that can be used today for cedar roofing in Dade County, Florida, which has the most stringent wind testing requirement in North America.

In 2005, CSSB personnel were deployed to the hurricane Katrina area to assist the insurance industry in collecting data on structural damage assessments for a variety of building products.

Energy Efficiency

Wood is also the most energy-efficient building material available today in terms of total energy costs of different kinds of building materials, including the cost to acquire the raw material, transport it and process it into a useful product. The energy efficiency of the forest extends to forest products. Building products made from aluminum, for example, require 126 times more energy than wood to fashion a final product.



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Renewable and Recyclable

Trees are a renewable, biodegradable resource, so the use of wood products is an environmentally sound roofing choice in the marketplace. Most alternative building products and so called "wood substitutes" rely on nonrenewable resources such as petrochemicals and ores being mined or pumped from the earth. The forest industry replaces what it removes; the same cannot be said of iron ore, petroleum, oil reserves, bauxite or limestone, all used to create composition products. These alternatives can linger in landfills for decades, if not longer.

A little known fact about cedar shakes and shingles is that many are actually made from salvaged wood fiber that is left over from past logging work or windblown material left on the forest floor. With this material being of unsuitable size for lumber mills, cedar shake and shingle producers use helicopter and manual methods to remove it from the forests in a habitat-sensitive way, thus ensuring the best use of a valuable resource.

Summary

We urge the committee not to pass HB 2676 for the reasons stated above. If the concern is the fire safety of building materials, rated cedar shakes and shingles satisfy objective safety ratings and criteria, and therefore should not be singled out. We suggest that in order to achieve its public safety goals, municipalities could require the use of fire resistance rated roofing materials, and let homeowners choose which materials they find most aesthetically pleasing in their neighborhoods.

Respectfully,

Rachel B. Rubin

Rachel B. Rubin
Attorney for Cedar Shake & Shingle Bureau