

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Vice-Chairman Carl Krehbiel at 9:00 A.M. on January 30, 2006 in Room 231-N of the Capitol.

All members were present except:

Carl Holmes- excused  
Tom Sloan- excused  
Vaughn Flora- excused

Committee staff present:

Mary Galligan, Kansas Legislative Research  
Dennis Hodgins, Kansas Legislative Research  
Mary Torrence, Revisor's Office  
Heather Klaasen, Research Intern  
Rena Hansen, Committee Secretary

Conferees appearing before the committee:

Representative Frank Miller  
Ed Jaskinia, TALK  
Rhonda Franks, Scranton, KS  
Kimberly Winn, League of Kansas Municipalities  
Jeff Bridges, City of Andover  
Gary Hanson, Kansas Rural Water  
Dennis Schwartz, Kansas Rural Water

Others attending:

See attached list.

Hearing on:

**HB 2592**      **Liens for utility services provided by municipally owned or operated utility.**

Proponents:

Representative Frank Miller presented testimony (Attachment 1), in favor of **HB 2592**. He explained that legislation concerning this issue has appeared before the house and senate in years past. Additionally he gave a brief summary of what **HB 2592** does for local governmental entities providing utility services.

Ed Jaskinia, The Associated Landlords of Kansas (TALK), (Attachment 2), offered comments on **HB 2592** stating how it would help landlords keep their utility services on.

Rhonda Franks, Scranton, Kansas, (Attachment 3), offered testimony stating how **HB 2592** would keep local cities from passing "home rule" laws that allows them to opt out of state laws.

Written testimony was received from Ried Copeland, (Attachment 4), in favor of **HB 2592**.

Opponents:

Kimberly Winn, League of Kansas Municipalities, (Attachment 5), presented testimony in opposition to **HB 2592** stating how the bill would take the equity out of utilities collection for municipalities.

Representing the City of Andover, Jeff Bridges, City Administrator, (Attachment 6), presented testimony including a map, explaining why the City of Andover was not in favor of **HB 2592**.

Gary Hanson, General Council, Kansas Rural Water Association, (Attachment 7), offered testimony for **HB 2592** asking that the rural water districts be left out of the legislation.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on January 30, 2006 in Room 231-N of the Capitol.

Dennis Schwartz, President, Kansas Rural Water Association, (Attachment 8), gave testimony explaining why statutorily the rural water districts should be left out of **HB 2592**.

Questions were asked and comments made by Representatives: Jason Watkins, Don Myers, Peggy Mast, Robert Olson, Lynne Oharah, Mitch Holmes, Melody Miller, Richard Proehl, Virginia Beamer, Forrest Knox, Tom Hawk, Judy Morrison and Carl Krehbiel.

Irvine Hamm of Sedane Kansas was offered an opportunity to speak to HB 2592. He offered comments in favor of the bill from the viewpoint of a landlord.

Hearing on HB 2595 was closed.

The next House Utilities meeting is scheduled for January 31, 2006.

Meeting adjourned at 10:41 A.M.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 30, 2006

NAME	REPRESENTING
Ron Seeber	Gen Law Firm
Pat Lehman	K R W A
GARY HANSON	K R W A
Dennis Schwartz	K R W A
Amy Train	City of Andover
Sasha Stiles	City of Andover
BILL YANEK	KS. ASSN. OF REALTORS
Joe Duk	K C B P U
Beth Gandy	So Co. Landlords
Lois Gandy	Johnson County Landlords
William L. Gochis	Johnson County Landlords
Charlene Rabuck	Stearns Co. Landlord Assn.
Monica Gandy	Osage Co Landlords
Dave Holcomb	KEC
Lucretia Marion Hann	Selam, KS.
KEN DANIEL	Ks SMALL Biz. com
Cherie Watts	EUDORA LLA
Ed May	LGR
Tuff Bridges	City of Andover
Robert Randall	KCPA

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 30, 2006

NAME	REPRESENTING
Kim Winn	LKM
JAMES C. DUNN	T.A.L.K.
Tom DAY	KCC
Jeff Vogts	Visitor
Connie Vogts	Visitor

**C. FRANK MILLER**  
 REPRESENTATIVE, TWELFTH DISTRICT  
 MONTGOMERY, CHAUTAUQUA, AND  
 ELK COUNTIES  
 HOME ADDRESS: P.O. BOX 665  
 434 DEER TRAIL DR.  
 INDEPENDENCE, KANSAS 67301  
 TOPEKA OFFICE: STATEHOUSE, RM 431-N  
 TOPEKA, KANSAS 66612  
 (785) 296-7646  
 EMAIL ADDRESS: miller@house.state.ks.us  
 WEBPAGE: WWW.FRANKMILLER.ORG



TOPEKA  
 HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 VICE-CHAIR: AGRICULTURE  
 MEMBER: EDUCATION  
 GOVERNMENTAL ORGANIZATION  
 AND ELECTIONS  
 HEALTH AND HUMAN  
 SERVICES  
 JOINT COMMITTEE ON CHILDREN'S  
 ISSUES

Monday January 30, 2006

Honorable Representative Carl Holmes, Chairman  
 Members of the House Utilities Committee

It is my pleasure to once again come before this committee in support of HB 2592.

Mr. Chairman, last year I presented HB2279, which was a bill that was almost a twin of this year's version. However, the bill that I presented last year was supposed to have been uniform statewide, but somehow turned out not to be uniform. For this reason, I have revised this bill somewhat from last year and have made it uniform statewide.

The injustice this bill corrects was made known to me last year by one of my constituents who is the owner of several rental houses. Since that time, I have had many other rental property owners tell me that the municipality has placed a tax lien on their rental property because a tenant moved out without paying all of his or her bills.

The bill, HB2279, that was passed last year by both the House and the Senate, and was signed into law by the governor, allows local governmental entities providing utility services to place a lien on a property owner's property tax roll for any unpaid bills, which were contracted with the property owner, for water, sewer, and trash charges. The law also allowed these services to be discontinued until the unpaid amount had been paid. However, the bill did not allow the local governmental entity to place a lien on the owner's rental property if the service was contracted with the tenant.

A brief summary of what HB2592 does is as follows:

1. The new bill requires the law to be applied uniformly statewide; which means no municipality or county can opt-out under Home Rule.
2. It does not allow a lien to be attached to the property owner's property tax roll for any unpaid tenant charges if the utility service provider contracted with the tenant.
3. The municipal utility service provider cannot refuse to contract with the tenant unless the tenant has outstanding unpaid utility bills.
4. It defines "utilities services" to include; water, sewer, trash, gas, and electricity.

Other persons will testify today and emphasize the magnitude of this injustice. It is important that rental property owners be protected from irresponsible tenant's unpaid bills, and from governmental organizations that want payment. This is true no matter how convenient the process is to that governmental entity!

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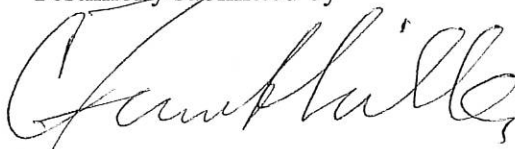
These rental property owners provide a service to communities in general by taking the responsibility of maintaining many of the older homes in our neighborhoods. This upkeep adds to the esthetic appearance of our communities, which in turn helps maintain or even increase the appraised values of all property. Thus, municipalities and counties benefit by enjoying a stable or increasing revenue base.

More importantly, these rental properties are much needed by low income families and young people not yet able to financially become homeowners. This includes, in many cases, our children or grandchildren.

I urge the committee to support HB 2592.

Thank you, Mr. Chairman, and I stand for questions.

Testimony submitted by

A handwritten signature in black ink, appearing to read "Frank Miller", written in a cursive style.

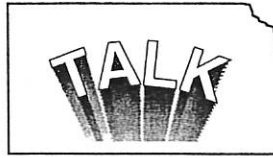
Representative Frank Miller

**Ed Jaskinia**  
President  
(913) 207-0567

# The Associated Landlords of Kansas

**Alex Scott**  
Vice President (Zone 2)  
(785) 238-3760

**James Dunn**  
Vice President (Zone 1)  
(785) 843-5272



**Gary Hefley**  
Vice President (Zone 3)  
(316) 722-7107

P.O. Box 4221 • Topeka, Kansas 66604-0221

The Associated Landlords of Kansas (TALK) was created in 1981 by a group of people from across Kansas to "Promote a strong voice in the legislature, a high standard of ethics, and provide educational opportunities for landlords." Some of our members helped create The Residential Landlord-Tenant Act of 1975, a model of fair law for both landlords and tenants. Our organization consists of members in 19 chapters across the state, and new chapters are in the process of being formed.

In this 2006 legislative session, we continue to work for fair and decent housing for all. We have listed below some of the issues that are of interest to us in this legislative session.

## HB 2592 - UTILITY BILL

What a shame that after 2 Bills passed in the last 2 years on this issue, some local municipalities are still ignoring both fair play and the wishes of the House, Senate, and Governor.

The bill is pretty basic. Some local governments are refusing to provide utilities to tenants, or if they do, they require a higher security deposit, sometimes several times higher than owner-occupied property. This in effect creates a sub-class of citizens.

Some municipalities, when they do provide services to tenants, hold the property owner responsible for unpaid bills by the tenant, a violation of Contract Law 101.

The passage of this bill will (hopefully) end the irresponsible and unethical treatment of our sons and daughters, also known as tenants.

If we can be of help to you in these or any other areas concerning property, tenants, or landlords, please feel free to contact us.

Ed Jaskinia, President

ZONE 1  
Landlords of Lawrence Inc.  
Landlords of Johnson County, KS Inc.  
K.C.KS. Landlords Inc., serving Wyandotte Co.  
Eastern Kansas Landlords Assc., serving Miami Co.  
Franklin Co. Landlords Assc.

ZONE 2  
Landlords of Manhattan Inc.  
Geary County Landlords Inc.  
Jackson County Landlords Assc.  
Shawnee County Landlords Assc.  
Salina Rental Property Providers Inc.  
South Central Kansas Landlord Assc.  
Serving Sumner County

ZONE 3  
Central Kansas Landlords Assc.  
Bourbon County Landlords Assc.  
Cherokee County Landlords Assc.

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## Testimony HB 2592

In the words of Yogi Berra, it's "Déjà vu all over again".

In 2005 we brought you a bill, which you as a committee passed unanimously and was later signed into law, that all of us thought had solved the problem of municipally owned utilities treating tenants as untrustworthy con men, presuming guilt until proven innocent, while not allowing a means to prove their innocence.

Last year you appeared upset when I showed you a page from a League of Municipalities magazine which showed how they (the cities) could beat the law which you had passed the previous year.

This is not a complicated bill, in the same way that this is not a complicated issue.

This proposed law will simply make the rules dealing with providing utilities uniform, so that *everyone* must play fairly and equally.

The issue is equally simple.

Municipally owned utilities say they have a problem with a few people skipping out on their bills. They say that they must use extraordinarily bad rules to deal with the non-owner occupied property. Some of these rules are:

- 1) Hold the property owner responsible for the bill of the tenant. If that seems fair to you, may I suggest that when someone skips out on *any* debt, the employer or former employer of that person be held responsible for that debt. Contract Law 101 would probably discourage that.
- 2) Refuse to contract to provide utilities for anyone but the property owner. All men (and women) are created equal. Maybe they think that's an outdated concept.
- 3) Charge excessive security deposits to tenants. A tenant rents for one of several reasons, some of which involve money problems. When you add to that problem by treating those people as a loan shark would, that hardly seems like fair play.
- 4) Create fairness in the security deposit scheme by charging *ALL* customers the same outrageous fees. Most towns are competing for new residents and business. This is not the best way to say "Thanks for locating here".

The municipalities say they're facing a real problem. Are they really?



Nobody knows. Whenever I or my associates have asked local governments or their lobbyists the number of bad debts or percentages of bad debt of non owner verses owner occupied property, the answer is always the same:

“We don’t know, but we’ve been told by our clerks or managers that it’s bad.”

They explain that their computers are not programmed to break down the details we want, or tell us that it’s not covered under the open records law.

The computers are also to blame, they say, for the sometimes excessively long time it takes to get the bills out to their customers. One city even explained that their computer could not do tasks like create bills. I pointed out to them that there was a Best Buy store less than 60 miles away, and software available that even a 12 year old could use. (I have to admit though, that I should have said **only** a 12 year old could use).

If there really is a problem, is there a solution?

YES!

Identify what is really causing the problem.

If it’s just a deadbeat problem, hire a bill collector. I know it sounds simplistic, but businesses of all types employ this method, and local municipalities should as well.

If it’s a computer problem, get a new one.

And if it’s a personnel problem, fire them.

Just stop punishing the innocent for the sins of the guilty.

Ed Jaskinia  
President/Lobbyist  
The Associated Landlords of Kansas (TALK)

January 26, 2006

Rhonda Franks  
717 E 5<sup>th</sup> St  
Scranton, KS 66537  
(785) 633 4961

To: The Honorable Representative Carl Holmes, chairman, and all members of the House Utilities Committee.

Mr. Chairman I support HB 2592 because it will make uniform the laws passed the last two sessions and will stop cities from unfairly placing the financial burden on property owners to pay a tenant's or any previous customer's unpaid utility bill.

With the passage of this bill, cities will no longer be able to "home rule" out of state law as many cities currently do. For the last two years I watched the Scranton City Officials "home rule" out of state law and pass ordinances which allow them to bypass the state law which state lawmakers intended to be uniform. When Scranton attempted to "home rule" out of state law regarding this issue, citizens circulated a successful petition and defeated the charter ordinance at the polls. Yet, even though the citizens spoke loud and clear with their votes at the polls, the City of Scranton passed ordinances the following year which places as much financial burden possible on the landlord or the next property owner, rather than the person who created the debt. They additionally passed ordinances which discriminate against tenants by requiring unreasonably high deposits from a tenant, but not from a home owner.

Scranton **refuses** to provide utility services at a residence until the next customer, whether it is the landlord or a new property owner, pays the previous customer's unpaid debt. This policy not only places the financial responsibility on the **wrong** person, it also **enables** someone to fail to pay their bill. Once some (not all) individuals realize that their landlord or the person they are selling their property to will be required to pay their final bill, they aren't going to pay their final bill. **Make the person who created the debt accountable. Stop enabling them to skip out. Pursue them.** Cities need to aggressively pursue collection against the person that created the debt, instead of forcing a third party who did not contract for the service to pay the debt. No other business is allowed to do this. If a customer at a gas pump drives off without paying for the gas, the gas station does not require the next customer to pay the "drive off" customer's debt before being allowed to purchase gas himself.

Without the passage of this bill, if cities are allowed to continue to force landlords to pay someone else's debt, landlords will be forced to raise rents or defer maintenance on properties. This will result in sub-standard properties which would ultimately decrease the tax base.

Myself and others in the City of Scranton have been forced on numerous occasions to pay the debt of a former city customer. As landlords, we have had to pay previous tenant's outstanding utility bills. When purchasing new properties, we have been forced to pay the **previous property owner's** outstanding utility debt. I was even forced to pay for a **former property owners' bounced check** when I purchased a new property. In all of these situations the city did not pursue collection action against the person who created the debt—they just passed it to the landlord or the new property owner. The city also failed to pursue prosecution of the person who wrote the bad check.

In one case, when I protested paying one of these, I was told by the city council that if I failed to pay the former

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**home owner's** outstanding utility bill, the city would shut utilities off to my personal home, my restaurant, my husband's commercial shop and every rental that we owned. They knew my pockets weren't deep enough to fight this and I had no choice but to pay the bill. This is all a form of extortion.

I keep hearing from city officials that these unpaid bills will bankrupt them. I surveyed about 10 cities, including Scranton, to try to get statistics from them. Osage City was the only city that provided information, they stated it is NOT a problem; they lose less than 1% of their annual budget due to uncollectible accounts. All other cities told me they did not have that information available. If it is not available, how can they determine it will bankrupt them?

I had to pay nearly \$900.00 last year to the City of Scranton for debt that was not mine. This was over 2.5% of my annual budget. This was money that I could have used to improve and maintain my properties which increases the value of my properties and ultimately increases the cities tax revenues. This same \$900.00 was less than 1/10 of one percent of the city's annual budget.

Please make this bill law. Passage of this bill will not only prevent cities from unfairly burdening one class of business owner with someone else's debt; but also prevent cities from discriminating against tenants.

25 , January, 2006

Reid Copeland  
114 W Elm St  
Sedan , Kansas 67361

Phone (620)-725-5286, E-Mail - Reidcopeland@SBCGLOBAL.NET, Fax-(620)-725-3535

The Honorable Representative Jene Vickery, Chairman  
And all Members of the Governmental Organization & Elections Committee

Mr. Chairman ;

I support HB2592 because I feel it's time that People be held responsible for their own debts . Under the current system tenants have given a license to steal knowing that they will not be held accountable for services they have contracted for.

In 2004 twenty-two different Tenants did not pay their Solid Waste charges to the Chautauqua County Solid Waste Dept. As a result we had to pay \$1993.00 plus penalties . This Money could have gone toward renovations on our rental Properties . But because of the current rules Chautauqua County Aided and Abetted those 22 Dead beat tenants in Stealing that \$1993.00 from us .

Sincerely



Reid Copeland

*ATT: FRANK MILLER*

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ATTACHMENT 4



League of Kansas Municipalities

3W 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

To: House Utilities Committee  
From: Kimberly Winn, Director of Policy Development & Communications  
Date: January 30, 2006  
Re: Opposition to HB 2592

Thank you for the opportunity to appear before you today on behalf of the 576 member cities of the League of Kansas Municipalities (LKM). LKM and our member cities stand in opposition to HB 2592. Because HB 2592 would uniformly prohibit the collection of fees due and owing to the city from landlords, HB 2592 would have a negative impact on all cities that operate water, sewer, solid waste, electric, or natural gas services.

Across the country it is not unusual for cities to have local ordinances requiring landlords to pay utility bills in the event that a tenant does not pay and we support a city's ability to use this collection method for the following reasons:

- **Equity.** The real crux of this issue is equity. If cities are unable to collect delinquent utility bills from landlords who have rented to tenants who refuse to pay their bills, then the remaining citizens of the city will bear the cost in higher utility rates. Citizens of the community who pay their bills in a timely fashion should not be penalized for those tenants who refuse to pay their bills. The landlords, who own the property, and are using the property as a money-making enterprise should be obligated to make sure that the city services which are delivered to that property are ultimately paid for.
- **Landlords Have Alternatives.** Allowing a tenant to individually contract for his or her own utility service is really up to the landlords. Many landlords simply include water and sewer service as part of their rent charges, thereby avoiding the situation where a tenant "skips out" on the payment of those charges.
- **Home Rule.** We believe that such decisions are best left to locally elected officials and their citizenry.

The lien which is provided in in statute and in most city ordinances is the mechanism by which cities and their citizens can be assured that each property pays its fair share for the use of city services. HB 2592 would amount to a subsidy of landlords by property owners who pay their bills appropriately. For these reasons, we respectfully request that you do not report HB 2592 favorably for passage. Thank you for the opportunity to share our concerns on this issue. I would be happy to stand for questions at the appropriate time.

**Testimony in Opposition to HB 2592**  
**Before the House Utilities Committee**  
**January 30, 2006**

**Jeff Bridges, City Administrator, City of Andover**

Mr. Chairman and members of the Committee thank you for your time this morning. I am appearing today in opposition to HB 2592 for the following reasons:

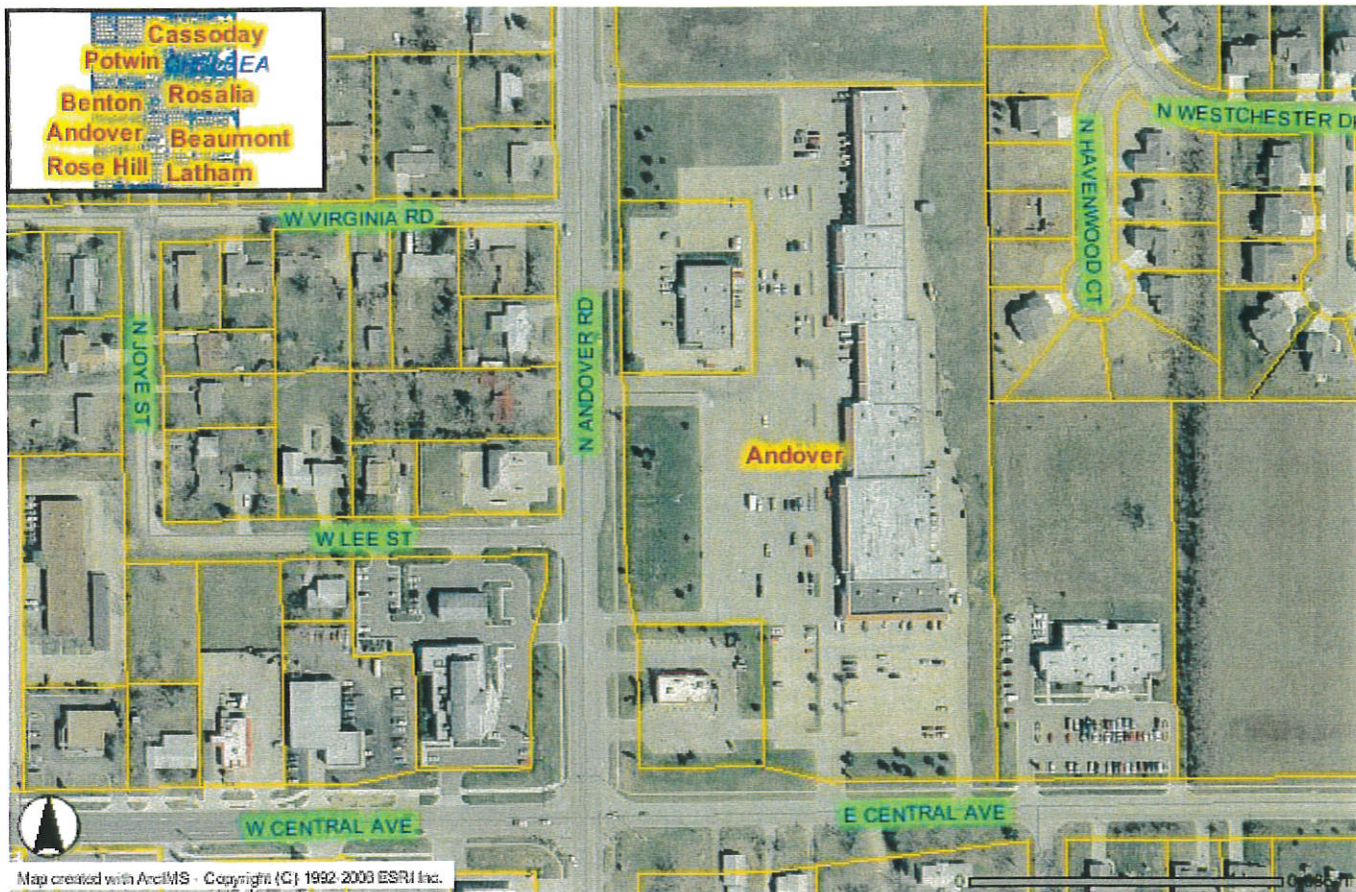
- This bill would only increase the burden on resident home and business owners while guaranteeing the profit margins of non-resident landlords. People already struggling to pay for higher heating and fuel costs, prescription drugs, local property taxes, electricity, etc., will now pay higher utility fees because we have absolved landlords from their proper obligations.
- This bill would increase the costs for municipal utility customers and local tax payers through either the implementation of more costly delinquent collections systems or increased "write offs" of uncollectible municipal utility bills
- The ability to assess a property owner for an unpaid tenant obligation was put in place to protect the financial stability of municipal utilities from unpaid user fees. There has been no change in circumstance that has made this authority any less vital to the fiscal health of municipal utilities
- This is not a State issue. These decisions should be left to the local elected officials. If a landlord does not like a local ordinance that affects their property, then that landlord should take that issue up with the local unit of government.
- If a landlord does not want to be held accountable for their choice of tenant, then they should not own rental property in that community, but rather own rental property in a community that wants their residents to pay a landlord's utility bills.
- A landlord could keep a rental unit in the name of a vacated tenant until a new tenant is found as a way around paying the utility bills while the unit is empty and the municipality would have no idea when the tenant left the unit or where they went.
- Some utilities, such as storm water, do not lend themselves to tenant based charges. There is no good way for a storm water utility to divide up the charges for storm water management for a parking lot serving multiple commercial entities. (See attached map)
- If passed this bill would take the risk for delinquent utility bills away from an absentee landlord and place that risk on resident home and business owners

It is for these reasons, summarized simply by saying that it is not good legislation to burden one property owner with the irresponsibility's of another, that I stand in opposition to HB 2592.

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P.O. Box 226 • Seneca, KS 66538 • 785/336-3760  
FAX 785/336-2751 • <http://www.krwa.net>

January 30, 2006

House Utilities Committee

Re: HB 2592

Dear Mr. Chairman and Members of the Committee:

We interpret this bill to apply to rural water districts organized under K.S.A. 82a-612. As such, the bill appears to have the effect of contradicting the by-laws, and perhaps more importantly, the contracts between the districts and their customers.

By statute, the benefits of each rural water district are divided among their members into "benefit units". These units are a type of property attached to the land they serve. The by-laws and user agreements used by most rural water districts (supplied by their funding agency, the USDA), provide that all charges incurred, whether by the unit owner or others are a "lien" on that property and must be paid or the unit is subject to termination.

If enacted, HB 2592 would seem to radically change the way rural water districts conduct business. Its affect on existing by-laws and user agreements would, at a minimum create uncertainty and could affect rural water districts relationship with a vital partner, the USDA. Because of the unique way rural water districts are organized, HB 2592 should be amended to make it inapplicable to rural water districts.

Very truly yours,



GARY H. HANSON  
General Counsel

GHH/jah/asc

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ATTACHMENT 7





P.O. Box 226 • Seneca, KS 66538 • 785/336-3760  
FAX 785/336-2751 • <http://www.krwa.net>

**Comments on HB 2592  
Before the House Utilities Committee  
January 30, 2006**

Mr. Chairman and Members of the Committee:

My name is Dennis Schwartz. I am President of the Board of Directors of the Kansas Rural Water Association. I am also Manager of Rural Water District No. 8, Shawnee County. I appreciate the opportunity to present comments on HB 2592 on behalf of the more than 700 rural water districts, public wholesale water districts and municipal members of the Kansas Rural Water Association.

HB 2592 would have the effect of negating standard rural water district by-laws and many city ordinances that make the benefit unit owners (landowners or participating members) liable for payment for services incurred by one other than the owner in the event the contracting party (like a tenant) fails or refuses to pay. The bill also expressly prohibits refusal to provide service to tenants in most instances. This is totally contrary to the manner in which rural water services are provided.

The present bill is further flawed. K.S.A. 82a-612 prohibits rural water districts from having the ability to levy taxes; privately owned utilities or other utility commissions also lack such authority.

K.S.A. 82a-619 provides that rural water districts have the authority to enter into loan agreements with the Secretary of the United States Department of Agriculture. With but two or three exceptions, every rural water district in Kansas has been developed by using funds from the Farmers Home Administration or Rural Development Agency. That agency and other lenders require an Application for Water Service and Water User's Agreement which is a contract between the consumer and the District, pursuant to which water service is supplied and accepted – every one of which holds that the landowner or participating member is ultimately responsible for services provided to the property. When a tenant is delinquent on a water bill, the landowner is notified; and if the tenant does not pay, the bill is assessed to the landowner. The benefit unit (membership) is a property right of the landowner, and the landowner is responsible for maintaining the status of that membership. Notification of any discontinuance of utility services also must be provided through due process. With the passage of this bill as written, all water districts in the state would need to add to their rates an increase to create a fund to pay for the tenants who do not pay their bills when the property owners are not held responsible. The bill therefore presents the potential for higher rates for rural water customers.

The Kansas Rural Water Association opposes HB 2592, and we request that this bill not be passed into law.

Dennis F. Schwartz  
President, Kansas Rural Water Association

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ATTACHMENT 8