

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:05 a.m. on February 8, 2001 in Room 521-S of the Capitol.

All members were present except:     Rep. Doug Patterson - excused  
  Rep. Rick Rehorn - excused

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

Conferees appearing before the committee:     Hal Hudson, NFIB  
  Francis Kastner, Ks Food Dealers  
  Larry Oeding, Check Center  
  Brad Harper, Collection Agency in Manhattan  
  Stuart Kowalski, Attorney, Wichita  
  Marlee Carpenter, KCCI  
  Lu Probasco, Attorney, Topeka  
  Paul Davis, Kansas Bar Association  
  Kathy Porter, Office of Judicial Administration  
  Terry Humphries, KTLA

Others attending: See attached list

**Continued Hearing on: HB 2150 - Worthless checks.**

Chairman Lane asked that questions from the committee be held until after all the conferees have testified.

Proponents:

Hal Hudson, National Federation of Independent Business (NFIB), feels that the bill provides some assistance to the holders of worthless checks in getting their money to replace the check. Yet it provides ample opportunity for an honest person to correct their mistake, and make good on their worthless check. The NFIB believe we need the bill to help small and independent business owners stay in business. (Attachment 1)

Francis Kastner, Kansas Food Dealers, appeared as a proponent of the bill. The food dealers believe that the bill should help reduce the total amount of profit lost from uncollected bad checks. They feel that the honest consumer should not have to bear the burden of paying for those who deliberately try to escape a debt. (Attachment 2)

Larry Oeding, President of Check Center, appeared as a proponent of the bill. He explained how a worthless check is processed through his collection agency. They feel the elimination of the certified letter would save the merchant's checkwriter \$6.94, and more of the checkwriters would receive first class letters and pay for their bad checks. On the average it takes Check Center approximately five years to collect a judgement. (Attachment 3)

Brad Harper, Manhattan Check Service in Manhattan, appeared as a proponent of the bill. One of his main problems is getting attorneys who will work in collections. Ninety-nine percent of checks written are good checks. Of the one percent that are returned unpaid, 70-75% are collected without any problem, of the remainder, about 10% goes to the attorney and 5% of these end up being litigated. Only one out of three litigated cases get collected within five years. His three main expenses are filing fees, certified mail fees, and first class postage. These charges have gone up drastically the last few years but the service charge they can collect has remained the same.

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MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE, Room 521-S Statehouse, at 9:05 a.m. on February 8, 2001.

Stuart Kowalski, Attorney, Wichita, appeared as a proponent of the bill. There is an incredible amount of costs in running a collection agency. His business have nine collectors, nine or ten skip tracers, and he also works with about 30 attorneys across the state. The parts of the bill he thinks will help him the most are getting rid of the certified letter requirement, allowing reasonable minimum attorney's fees, and changing the posting law that deals with service charges for returned checks.

Marlee Carpenter, Executive Director, Kansas Retail Council, Kansas Chamber of Commerce and Industry (KCCI), appeared as a proponent of the bill. The bill sets an attorney fee for the collection of worthless checks and increases the service charge for each bad check passed. The Kansas Retail Council supports the changes as it will make it easier for attorneys to collect on bad check debts. ([Attachment 4](#))

Lu Probasco, an Attorney in Topeka, shared two cases with the committee. The notes show the work that is done to process a case. She has a small office, but her expenses for December were \$22,122.53. How much money would she have to generate per hour to pay her overhead? She asks for reasonable attorney fees, let the judges decide, but not less than \$350. She feels that they need to be protected from the judges who refuse to be educated on the costs of bringing these cases to court. ([Attachment 5](#))

Opponents:

Paul Davis, Kansas Bar Association (KBA), appeared as an opponent to the bill. The KBA has been studying ways to improve the Kansas worthless check statutes. A bill was passed into law last year (part of **HB 2905**) that they believe will resolve more bad check disputes prior to litigation or judgment. They believe that fees should be set on a case by case basis. They do not believe the amendments in **HB 2150** will improve matters. ([Attachment 6](#))

Kathy Porter, Office of Judicial Administration brought letters from District Magistrate Judge Michael A. Freelove and John E. Bremer, President of Kansas District Magistrate Judges Association. Their position is that allowing attorney fees has historically been left to the discretion of the court. She questioned the amendment to the bill concerning the \$350 attorney fee for the first check and \$50 for each additional check, and the way cases are filed. If four worthless check from the same person are filed at once, the fee would be \$500. If each case is filed separately, the fees would total \$1400. ([Attachment 7](#))

Terry Humphries submitted testimony from Gary White, Kansas Trail Lawyers (KTLA). The KTLA is neither a proponent or an opponent of the bill. However, if the committee chooses to work the bill, they have two concerns. One is the amendment that removes judicial discretion to impose fines and attorney fees in bad check cases. Their other concern is removing the certified letter requirement. KTLA agrees that the holder of a worthless check should be properly reimbursed and that attorney fees should be awarded in appropriate cases, but they believe that such a result is already provided for under existing law. ([Attachment 8](#))

Written testimony was received from Wayne Michael, Kansas AFL/CIO, who was unable to return today. The AFL/CIO is opposed to two of the amendments in the bill. ([Attachment 9](#))

Marcia Lessenden submitted written testimony voicing her disapproval of removing the restricted mail requirement from the statute. ([Attachment 10](#)).

The conferees answered several questions from committee members.

No others were present to testify for or against **HB 2150** and Chairman Lane closed the hearing.

The meeting adjourned at approximately 10:45 a.m. The next meeting will be held February 9, 2001.