

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on March 9, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative Sue Storm- excused

Committee staff present:

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

Conferees appearing before the committee:

Ed Jaskinia, The Associated Landlords of Kansas
Bill Yanek, Kansas Association of Realtors
Dan Sight, Kansas Association of Realtors
Sandy Jacquot, League of Kansas Municipalities
Gary Hanson, Kansas Rural Water Association

Others attending:

See Attached List.

The Chairman opened the meeting on:

SB 328 **cities and counties; limitation on lien for unpaid sewer charges**

Ed Jaskinia, The Associated Landlords of Kansas, testified in support of the bill (Attachment 1). He said current law allows local government to place a lien on property that has unpaid sewer service charges and to discontinue water service if either the water bill or sewer service charges are not paid. He explained that some local governments have decided that if a tenant contracts for service and does not pay, then the penalties for nonpayment are to be absorbed by the property and its owner, even though the owner is not a party to the contract between the tenant and utility provider. **SB 328** seeks to correct the language in the existing laws to prevent that from happening.

Bill Yanek, Kansas Association of Realtors (KAR), testified in support of the bill (Attachment 2). He said KAR supports amending the bill to create commercial lien rights for Kansas commercial brokers and agents. He cited the following key aspects of the proposed amendment:

- The transaction must deal in commercial real estate only.
- There must exist a written instrument entitling the real estate licensee to a fee or commission.

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- Prior valid recorded liens, mortgages, and other encumbrances shall have priority over a real estate licensee's lien.
- A licensee may bring suit to enforce a lien in the district court in the county where the property is located.
- The cost of proceedings brought under this act including reasonable attorney fees, costs, and prejudgment interest due to the prevailing party shall be borne by the non prevailing party to parties.

Dan Sight, Kansas Association of Realtors, testified in support of the bill ([Attachment 3](#)). He said that there are currently 20 states that have a commercial lien act. He explained that they are asking for protection for commercial brokers and agents in Kansas to be paid the commissions on sales and leases to which they are entitled.

Sandy Jacquot, League of Kansas Municipalities, testified in opposition to the bill ([Attachment 4](#)). She said the bill would have a negative impact on all cities that operate water and sewer systems. She explained that there are three key reasons for current policy:

- Water and Sewer Service Run With the Land - While a part of each month's bill is based on the specific usage by each individual customer, most water and sewer bills contain a "minimum monthly payment" which is required as a result of the property's connection to the water or sewer system itself. This is a strong indication that it is the connection to the system which is of greatest value to the property. This expense should ultimately be borne by the landlords of the property who are free to pay it themselves as owners or to pass it on to their tenants in their lease payments.
- Equity - If cities are unable to collect delinquent water and sewer 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 water and sewer rates.
- Landlords Have Alternatives - Allowing a tenant to individually contract for his or her own water and sewer 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.

Gary Hanson, Kansas Rural Water Association (KRWA), testified in opposition to the bill ([Attachment 5](#)). He said the effect of the bill is to shift the risk of loss for nonpayment of sewer service to the city and off of the landlord. KRWA believes that the landlord is in a better position to manage this risk, such as through a deposit, than is the sewer utility.

Written neutral testimony was submitted by:

- Sherry Diel, Kansas Real Estate Commission ([Attachment 6](#))

The Chairman closed the hearing on: **SB 328**

Minutes

CONTINUATION SHEET

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Rep. Gilbert made a motion to approve the minutes of the February 5, 2004 and March 4, 2004 meetings. Rep. Thull seconded the motion. The motion carried.

Interim Study Request

Copies of a draft letter to the Legislative Coordinating Council on behalf of the Committee were distributed to the members for their review (Attachment 7). The letter requests an in-depth study of city annexation laws during the 2004 Interim.

The meeting was adjourned at 4:30 p.m.

The next scheduled meeting is March 11, 2004.