

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 14, 2005 in Room 313-S of the Capitol.

All members were present except:

Michael Peterson- excused
Mike Kiegerl- excused
Jim Ward - excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Representative Ed O'Malley
Kathy Olsen, Kansas Bankers Association
Ron Gaches, Consumer Data Industry Association
Mike Stewart, TransUnion
Lana Walsh, Office of Judicial Administration
Judge Steve Leben, 10th Judicial District, Johnson County
Matthew Goddard, Heartland Community Bankers Association
Will Larson, Associated General Contractors of Kansas

The hearing on **SB 145 - public court records filed on & after July 1, 2005 shall have references to individual's social security number removed or rendered unreadable**, was opened.

Representative Ed O'Malley appeared on behalf of Senator Barbara Allen who is the sponsor of the proposed bill. The bill was introduced to protect Kansans social security numbers to troth identity theft. Identity theft is a huge problem that continues to grown each year. It is most easily committed when an individual gains access to a potential victim's social security number. Court records are available to the public and may have the requirement, by either state statute or court rule, that a social security number be listed on the form. (Attachment 1)

Kathy Olsen, Kansas Bankers Association, was concerned that the proposed bill would cause unintended consequences affecting the accuracy of credit reports. Bankers rely heavily on credit reports and background checks and social security numbers are a way of confirming identity of an individual. She requested an amendment which would make court documents with social security numbers exempt from the Kansas Open Records Act, and provide a list of those legitimate business who can access the records. (Attachment 2)

Ron Gaches, Consumer Data Industry Association, supported the concept of the bill but had concerns. Also supported the Kansas Bankers Association proposed amendment. He believed that the current bill is broad and would not be in the best interest of a loan consumer. Social security numbers are the most reliable identifiers in: child support cases, credit reports, law enforcement, homeland security and employee screening. Mr. Gaches has done research and could not find any instance where court records were causing identity theft. (Attachment 3)

Mike Stewart, TransUnion, stated that many courthouses are placing their information on computers and allowing businesses to upload names, address and social security number. However, each business must be certified to get the data from the courthouse.

Lana Walsh, Office of Judicial Administration, agreed with the intent of the proposed bill and understands why records should not be open to the public. She was concerned with court clerks removing social security numbers in files that are already input into the system. She suggested that removing the social security number should be responsibility of the party filing the document and that the implementation date of the bill be delayed. (Attachment 4)

Judge Steve Leben, 10th Judicial District, Johnson County, suggested that the proposed Kansas Bankers

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Association's amendment would be a big nightmare because the clerks would have to take the time to check every file. He does not believe that access to court records are causing identity theft. He suggested that the subject be an interim study. Possible solutions could be deleting section b, adopting Supreme Court rules giving the court flexibility or including the last four digits of the social security number with the rest being under seal of the court. (Attachment 5)

The hearing on **SB 145** was closed.

The hearing on **SB 112 - material man's liens; property of claims; property under construction**, was opened.

Kathy Olsen, Kansas Bankers Association, requested the proposed bill to address the Court of Appeals decision in Mutual Savings Assoc. v Res/Com Prop, which indicates that the priority date for all subsequent lienholders under this law can be established by a contractor or subcontractor who has been paid in full and no longer has a claim on the property and that work that is not visible can establish the priority date for all other subsequent lineholders. In discussion with other interested parties, it was determined that requiring that work be visible can be problematic and agreed to strike language in the bill requiring that the work establishing the priority date for all other lineholders be visible. (Attachment 6)

Matthew Goddard, Heartland Community Bankers Association, supported the bill and proposed amendment by the Kansas Bankers Association. (Attachment 7)

Will Larson, Associated General Contractors of Kansas, appeared before the committee in opposition to the proposed bill because it allows for the alteration of lien priorities at the time of foreclosures simply because the lender did not obtain a lien prior to filing a mortgage. (Attachment 8)

The hearing on **SB 112** was closed.

The committee meeting adjourned at 5:00 p.m. The next committee meeting was scheduled for March 15, 2005 at 3:30 p.m. in room 313-S.