

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Sharon Schwartz at 3:35 p.m. on January 28, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Mario Goico - Excused
Representative Steve Heubert - Excused
Representative Michael Peterson - Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Kristen Kellems, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Carol Bertram, Committee Assistant

Conferees appearing before the Committee:

Professor Michael Davis, Kansas Judicial Council
Senator Terrie Huntington, 7th District
Sylvia J. McCombs, Homeowner, Cedar Lakes Village
Harry Bonet, Private Citizen, Cedar Lakes Village
Representative Gene Rardin, 16th District
Cherylaine J. Sullivan, Private Citizen
Nila Ridings, Private Citizen
Rod Hoffman, Attorney, Kansas City, Missouri
Jerry L. Berg, President, CB Property Management, Inc., Wichita
Christine Lentz, Curry Association Management, Inc.
John E. Hartman, President, Nottingham Forest South HOA
Mark Mayer, Private Citizen
Whitney Damron, Kansas Bar Association
Luke Bell, Kansas Association of Realtors
Drew Quin, Private Citizen

Others attending:

See attached list.

Chair Schwartz opened the hearing on **HB 2472 - Kansas uniform common interest owners bill of rights act.**

The Chair recognized Mike Heim Office of the Revisor of Statutes, to present the Committee with an overview of **HB 2472**. He stated this bill would enact the Kansas Uniform Common Interest Owners Bill of Rights. It would establish rules to govern the rights and duties of owners, associations, and developers of common interest communities. It also would establish rules to provide effective operations of these entities as well as establish rules regarding the roles of associations and boards of directors.

Questions from the Committee followed.

Proponents

Chair Schwartz recognized Professor Michael Davis, a member of the Kansas Judicial Council. (Attachment #1) He informed the Committee of what the Council was trying to accomplish in designing this bill, and noted no legislation will avoid all conflict, but the Judicial Council recommends adoption of the Uniform Common Interest Owners Bill of Rights Act as appropriate and important state policy.

Questions by the Committee followed.

Senator Terrie Huntington appeared before the Committee in support of **HB 2472**. (Attachment #2) She stated this bill is a comprehensive bill, based on model legislation, which addresses the governance of apartments, townhomes, and gated communities. It would remind the boards of directors of home

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associations that there are rules and procedures to follow, that adherence to bylaws is mandatory, that citizens have a voice in the establishment of the rules and regulations under which they must abide, that financial statements are the property of the homes association members, and as such they can be viewed and/or copied, upon request. **HB 2472** is a necessary first step that consolidates into Kansas statutes rules and regulations for associations that are the first line of governance for property owners.

Sylvia J. McCombs, homeowner, Cedar Lakes Village, Wichita, appeared before the Committee as a proponent for **HB 2472**. (Attachment #3) She urged the Committee to not only pass this legislation but to insure that it can be enforced.

Harry Bonet, private citizen, Cedar Lakes Village, Wichita, presented testimony in support of **HB 2472**. (Attachment #4) He suggested enforcement measures be added to the bill.

Representative Gene Rardin, District 16, presented testimony in support of **HB 2472**. (Attachment #5) He stated this bill takes needed steps to curb mismanagement and slipshod business practices which have been demonstrated in some Kansas common interest community associations.

Cherylaine J. Sullivan, private citizen, offered testimony in support of **HB 2472**. (Attachment #6) She asked the Committee to consider adding an auditing requirement of homeowner association monies collected and spent to this bill. Also, she proposed that Kansas HOAs collecting over \$100,000 annually be required to submit or have available upon request an audit by an outside, qualified auditor to retain their not-for-profit status with the Kansas Secretary of State.

Nila Ridings, private citizen, presented testimony in support of **HB 2472** and offered several suggestions for the Committee to consider to be included in this bill. (Attachment #7)

Rod Hoffman, attorney, Kansas City, offered testimony in support of **HB 2472**. (Attachment #8) He stated in his opinion the Committee's attention should be directed to modernizing the statutes that authorize creation of ownership of condominiums and town homes. The condo and town home statutes should be updated to provide clear delineation of responsibilities of developers to home buyers and to home associations.

Jerry L. Berg, private citizen, offered testimony in support of **HB 2472**, and presented the Committee with suggestions as to changes to improve the bill. (Attachment #9)

Christine Lentz, Curry Association Management, appeared in support of **HB 2472**. (Attachment #10) She stated that her biggest concern is the burden that will be placed on homeowner associations through out the State of Kansas, the economic burden of compliance with this bill as written and the lack of volunteerism this bill could produce.

John E. Hartman, Nottingham Forest South HOA, appeared in support of **HB 2472**. He said he is sure the intentions of the bill are good, however, the unintended consequences are not. For homeowner associations, this bill would add increased expenses, greater records keeping, and a more daunting task of trying to find volunteers to serve on the Board. (Attachment #11)

Mark Mayer, private citizen, appeared in support of **HB 2472**. He stated that the rules and regulations provided under this bill can provide protection to homeowners so that they can become involved with their neighbors. He also said the bill was difficult to understand and cumbersome. (Attachment #12)

Huey P. Strickland, private citizen, appeared as a proponent for **HB 2472**. (Attachment #13) He stated that community financial records should remain open for examination by any resident who may request them.

Neutral

Whitney Damron, Kansas Bar Association (KBA), appeared as a neutral for **HB 2472**, stating the KBA does not have a formal opinion on the bill as written. However, the KBA is concerned with the past consideration of loser pay provisions and requests the Committee's assistance in avoiding including such language in this bill, should it be the Committee's desire to advance it out of Committee. (Attachment #14)

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Luke Bell, Kansas Association of Realtors (KAR), offered neutral testimony on **HB 2472**. (Attachment #15) He stated the KAR supports the general intent behind the bill, but has concerns with the scope and size of the Uniform Common Interest Owners Bill of Rights Act. He said, certain retroactive provisions of the bill have the potential to impair and negatively affect existing contractual relationships. Finally, the provisions of the bill could be burdensome for volunteer-driven homeowners' associations and could make it more difficult to identify volunteers who are willing to serve in any capacity.

There was one written-only testimony submitted in support of **HB 2472**. It was from Charles C. Maack, Cedar Lakes Village Association. (Attachment #16)

Chair Schwartz opened the floor to any questions the Committee might have of the above-mentioned conferees. Questions and discussion followed. Chair Schwartz then appointed a subcommittee consisting of Representative Mah, Chair; Representative Otto; and Representative Seiwert to review the testimonies and come back with recommendations.

Chair Schwartz recognized Drew Quin from the gallery to speak to the bill. He spoke in opposition to the bill. There was no written testimony submitted.

Chair Schwartz closed the hearing on **HB 2472**.

There being no further business before the Committee at this time the meeting was adjourned at 5:30 p.m.

The next meeting of the Committee will be February 2, 2010.

Representative Sharon Schwartz, Chair