		Approved	February	12,	1987	•
		npproved =		Date		
MINUTES OF THE <u>SENATE</u> COMMIT	TEE ONJU	DICIARY	***************************************			,
The meeting was called to order by	Senator Rob	ert Frey Chairperson				at
10:00 a.m./pxm. on February	11	, 1987	in room 51	4-S	of the Ca	apitol.
Langwo	ors Frey, Hofe orthy, Parrish and Yost.			-		s,
Committee staff present						

February 12, 1987

#### Committee staff present:

Mike Heim, Legislative Research Department Jerry Donaldson, Legislative Research Department Gordon Self, Office of Revisor of Statutes

#### Conferees appearing before the committee:

Senator Eugene Anderson Clark Lindstrom, Home Builders Association of Kansas Karen McClain, Kansas Association of Realtors Harold Shoaf, The Associated Landlords of Kansas, Inc. Tom Sweeten, Apartment Association of Kansas City Maggie Johnson, Wheatland Property Management, Inc.

Senate Bill 136 - Residential landlord and tenant act; requiring payment of interest upon certain security deposits.

Senator Eugene Anderson, author of the bill, explained the bill is designed to give the consumer some equity or fairness when his or her money is held in a fiduciary capacity such as a rent deposit. Twenty-eight states have laws protecting tenants by requiring interest be paid on security deposit. A copy of his testimony is attached (See Attachment I). Committee discussion with him followed.

Clark Lindstrom, Home Builders Association of Kansas, appeared in opposition to the bill. He stated the most objectionable point of this bill is the amount of the rate of interest to be paid. The wording would allow a tenant to collect interest on a deposit paid years ago, while we have not been permitted to collect any earnings or interest previously. The costs to administer this interest payment would be prohibitive. A copy of his testimony is attached ( $\underline{\text{See Attachment II}}$ ). During committee discussion, a committee member inquired if the security deposits were somewhere in some account earning interest. Mr. Lindstrom replied the statute doesn't permit us to do that. A committee member asked staff to check on a law not allowing interest on deposits.

Karen McClain, Kansas Association of Realtors, testified in opposition to the bill. She stated the organization feels this bill is bad public policy at a time when any form of economic development is being sought after by the state. The detriment to the apartment owners far outweighs any good which might come of it. A copy of her testimony is attached (See Attachment III).

Harold Shoaf, The Associated Landlords of Kansas, Inc., appeared in opposition to the bill. He stated this bill relating to payment of interest upon security deposits in our opinion is not in the best interest of either the landlords or the tenants. Security deposits are not money makers for the landlords, but are necessary requirements to insure against heavy losses to a property owner. A copy of his handout is attached (See Attachment IV).

#### CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m./pxxx on February 11 , 1987.

#### Senate Bill 136 continued

Tom Sweeten, Apartment Association of Kansas City, appeared in opposition to the bill. He stated their association represents 20,000 living units. He stated this bill will definitely increase rents and increase the cost to the consumer. The additional expense of implementing and monitoring this type of program would put pressure on increase in rents. He said, in the matter of deposits, I don't know of any law that won't let you put security deposits in an interest bearing account. He said they do not earn interest on their security deposits.

Maggie Johnson, Wheatland Property Management, Inc., testified in opposition to the bill. She stated based on the current condition of this industry, I feel it would be an added burden to require landlords to pay interest on the security deposits. The ultimate result of this piece of legislation is increased rental rates for our residents. A copy of her testimony is attached (See Attachment V). In response to a question from a committee member, she reported the organization has 450 rental units; 95% get their deposits back, and they have six month and one month leases.

The hearing on the bill was concluded.

During committee discussion of the bill, staff reported they could find nothing in the statute prohibiting interest on deposit. One committee member felt there were more issues in the Landlord Tenant Act that needed to be addressed if the bill is worked. Following further committee discussion, Senator Gaines moved to report the bill adversely. Senator Burke seconded the motion. The motion carried.

The meeting adjourned.

A copy of the guest list is attached (See Attachment VI).

## GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE DATE: 2-11-87 NAME (PLEASE PRINT) ADDRESS COMPANY/ORGANIZATION

2-11-87

STATE OF KANSAS

E. JENE (GENE) ANDERSON SENATOR, DISTRICT TWENTY NOVE SEDGWICK COUNTY PO BOX 4598 WICHITA, KANSAS 67204-0598



COMMITTEE ASSIGNMENTS

MEMBER: CONFIRMATIONS
EDUCATION
FEDERAL AND STATE AFFAIRS
PUBLIC HEALTH AND WELFARE

TOPEKA

SENATE CHAMBER

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

SENATE BILL 136 IS DESIGNED TO GIVE THE CONSUMER SOME EQUITY OR FAIRNESS WHEN HIS OR HER MONEY IS HELD IN A FUDICIARY CAPACITY SUCH AS A RENT DEPOSIT. 28 STATES HAVE LAWS PROTECTING TENANTS BY REQUIRING INTEREST BE PAID ON SECURITY DEPOSITS. THIS BILL IS PATTERNED AFTER LEGISLATION EXISTING IN MANY OF THOSE STATES.

THAT MR. CHAIRMAN, MEMBERS OF THE COMMITTEE IS MY EXPLANATION OF THE INTENT OF THE BILL.

EUGENE ANDERSON, SENATOR 29TH DISTRICT, WICHITA

Senate Judiciay 2-11-87



Peterson Companies

10000 west 75th street shawnee-mission kansas 66204 (913) 384-3800

FEBRUARY 11, 1987

TO: SENATE JUDICIARY COMMITTEE

FROM: CLARK LINDSTROM, SENIOR PROPERTY MANAGER, J. A. PETERSON COS. INC.

RE: SENATE BILL NO. 136

MR. CHAIRMAN AND HONORABLE MEMBERS OF THIS COMMITTEE, MY NAME IS CLARK LINDSTROM. I AM SENIOR PROPERTY MANAGER FOR J.A. PETERSON CO.S INC. OF SHAWNEE MISSION, KS. MY COMPANY OWNES AND MANAGES OVER 4,000 LIVING UNITS THROUGHOUT KANSAS IN WICHITA, TOPEKA, LAWRENCE, AND THE KANSAS CITY AREA. I AM A MEMBER OF THE WICHITA AREA BUILDERS ASSOCIATION; A FORMER APARTMENT COUNCIL CHAIRMAN OF THAT ORGANIZATION, DEAN OF THE REGISTERED APARTMENT MANAGERS SCHOOL, A MEMBER OF THE WICHITA CHAPTER OF THE INSTITUTE OF REAL ESTATE MANAGEMENT, AND MEMBER OF THE KANSAS APARTMENT ASSOCIATION. MY EXPERIENCE, OVER THE PAST FORTEEN YEARS, INCLUDES PROPERTY MANAGEMENT OF APARTMENTS, MOTELS, SHOPPING CENTERS, OFFICE BUILDINGS AND MOBILE HOME ESTATES. I AM HERE TODAY TO GIVE TEST IMONY ON THE ABOVE NOTED SENATE BILL PERTAINING TO PAYMENT OF INTEREST UPON CERTAIN SECURITY DEPOSITS.

I AND THE ORGANIZATIONS I REPRESENT, FIRMLY OPPOSE THE PURPOSE AND WORDING OF THIS BILL. THE MOST OBJECTIONABLE POINT OF THIS BILL IS THE AMOUNT OF THE RATE OF INTEREST TO BE PAID. ATTACHED IS A COPY OF THIS WEEKS "WICHITA JOURNAL" DETAILING PRESENT INTEREST RATES AVAILABLE. AS YOU CAN SEE, 10% WOULD BE AN IMPOSSIBLE STANDARD.

SECONDLY, THE WORDING WOULD ALLOW A TENANT TO COLLECT INTEREST ON A DEPOSIT PAID YEARS AGO, WHILE WE HAVE NOT BEEN PERMITTED TO COLLECT ANY EARNINGS OR INTEREST PREVIOUSLY.

LASTLY, THE COSTS TO ADMINISTER THIS INTEREST PAYMENT WOULD BE PROHIBITIVE.

FEDERAL LAW WOULD REQUIRE US TO ISSUE 1099 FORMS ANNUALLY TO ALL FORMER

TENANTS AND ADDITIONAL BOOKKEEPING EXPENSES WOULD CAUSE A RISE IN RENTS.

Attach. II Senate Judiciany 2-11-87



#### **Peterson Companies**

10000 west 75th street shawnee-mission kansas 66204 (913) 384-3800

FEBRUARY 11, 1987

PAGE 2

THEREFORE, I AND MY COLLEAGUES IN THE REAL ESTATE INDUSTRY ASK YOU NOT TO APPROVE THIS BILL FAVORABLY. TO DO SO WOULD RUB SALT INTO THE WOUNDS CREATED BY THE UNFAVORABLE FEDERAL TAX LAW CHANGES LAST YEAR. OUR INDUSTRY CONTINUES TO EXPERIENCE SEVERE ECONOMIC TIMES. MULTI-FAMILY OWNERSHIP IS SIMPLY NOT AN ATTRACTIVE INVESTMENT COMPARED TO A FEW YEARS AGO. IMPLEMENTATION OF UNFOUNDED REQUIREMENTS SUCH AS THIS BILL SIMPLY CONTRIBUTES TO FURTHER DISTRESSING AN IMPORTANT INDUSTRY IN THIS STATE.

I WILL BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

THANK YOU.

# MARKETPLACE

## Savings account yields

Listed are the effective annual yields, after compounding, on a variety of savings instruments offered in the Wichitia area. Yields are fixed rate for all contificates of deposit (CD). Rates paid are for deposits of \$2,500, except jumbo CDs, which require a \$100,000 minimum deposit. Yields were effective on February 3 and are subject to change daily. The financial institutions listed here and under mortgage and borrowing rates are selected by the Wichita Business Journal and are subject to change approximately every three months.

After a second of the second		Super	6-mon.	l-vr. CD	21/2-VI.	1-yr.	
BANKS	MMAs	NOW	CD	1-91.00	CD	CD	
American National Bank of Westlink	<b>√</b> 5.25¹	5.001	5.65	6.00	6.252		
Andover State Bank	5.25	4.75	5.50	6.01	6.272	6.12	
Bank IV Wichita	5.251	4.751	5.63	5.75	6.25	5.881	
Bank of Mid-America	5.13	4.75	5.50	5.50	6.00	3	
Central Bank & Trust	5.07		5.34	5.59	5.89	5,84	
Citadel Bank of Wichita	5.25	5.25	5.50	5.75	6.002	_	
City Bank & Trust	5.25	4.85	5.50	5.75	5.88	,	
First National Bank in Wichita	5.17	4.75	5.51	5.75	6.25	5.66	
First National Bank of Derby	5.50	_	5.50	5.75	6,00	,	
Kansas State Bank & Trust	5.254	4.75	5.50 <sup>s</sup>	5.75	6.135	5.88	
National Bank of Wichita	5.25	4.75	5.55	5.88	6.19	5.85	
Southwest National Bank	5.154	4.65	5.40	5.60	5.90²	5.66	1
Twin Lakes State Bank .	5.25	5.25	5.61	5.88	6.14	3 .	11
Union National Bank	5.134	4.75	5.50	5.75	6.252	5.88	
United American Bank & Trust	5.12	4.75	5.40	5.65	5.922	5.70	
Wichita State Bank	5.10	4.75	5.50	5.87	6.07	5.75	-
SAVINGS AND LOANS					A		
American Sav. Assoc.of Kan.	5.75	5.38	6.03	6.24	6.56	6.59	
Capitol Federal S & L	5.75	5.25	6.001	6.39	6.662	6.251	7
Fidelity Sav. of Kan.	5.75	5.25	6.00	6.25	8.552	6.45	
First Federal Sav. Bank of Kansas	5.75	5.25	6.00	6.25	6.50	6.25	
Franklin Savings Association	6.34	6.61	6.10	6.30	6.30	6.35	
Mid Continent Federal S & L	5.91	5.54	6.001	6.39	7.14	3	
Mid Kansas Fed. S & L	5.75		6.03	6,24	6.71	6.30	
Pioneer Savings	5.65	5.65	6.00	6.15	6.402	6.15	
Railroad Savings	5.934		6.09	6.34	6.86	6.34	
Wichita Federal S & L	5.75	5.25	6.14	6.35	6.71		

1					<del></del>			
	High yield this week:	6.34	6.61	6.19	6.41	7.14	6.59	
	High yield last week:	6.34	6.61	6.19	6.41	7.14	6.76	

Notes: 1. Simple interes

3. Negotiable

5. On deposits of \$500
—Account not offered

#### **Credit card rates**

Banks	Card	Interest rate	Annual membership	Minimum credit
Bank IV Wichita	Visa Mastercard	18%	\$18	ì
Union National Bank	Visa Mastercard	18%	\$18	1
First National Bank	Visa Mastercard	1896	\$18	\$500
Mid Kansas Federal	Visa Mastercard Mastercard Gold	1696 <sup>2</sup> 1696 1496	none \$18 \$24	\$500 \$5,000

## **Mortgage rates**

	(90 Percent Loans)1					
Lender	Note type	Interest rate	Total points	Loan ilmit		
American Savings Assoc. of Kansas	30-year fixed	9.00	1.75	\$153,100		
, -	15-year fixed '	8.88	1.50	\$153,100		
•	1-year adj.	7.13	2.25	\$153,100		
Bank IV Wichita	30-year fixed	9.13	2.00	\$153,100		
A STATE OF THE STA	15-year fixed	8.75	2.00	\$153,100		
	1-year adj.	8.00	2.00	\$153,100		
Capitol Federal S&L	30-year fixed	9.00	2.00	\$153,100		
	15-year fixed	8.75	2.00	\$153,100		
	1-year adj.	7.00 .	2.00	\$250,000		
Columbia Savings	30-year fixed	8.88	2.00	\$153,100		
-	15-year fixed	8.63	2.00	\$153,100		
	1-year adj.	7.25	2.00	\$153,100		
Eureka Federal Savings	30-year fixed	8.75	2.00	\$153,100		
	15-year fixed	8.50	2.00	\$153,100		
	1-year adj.	7.00	2.00	\$250,000		
Fidelity Savings	30-year fixed	9.00	2.00	\$153,100		
	15-year fixed	8.75	2.00	\$153,100		
	1-year adj.	7.00	2.00	\$300,000		
First Mortgage Corp.	30-year fixed	9.50	1.00	\$133,250		
	15-year fixed	9.00	1.50	\$133,250		
3.	1-year adj.	7.38	2.00	\$133,250		
Mid Continent Federal S&L	30-year fixed	9.00	2.00	\$153,100		
	15-year fixed	8.75	2.00	\$153,100		
\$35	1-year adj.	7.13	2.00	\$153,100		
Mid Kansas Federal	30-year fixed	9.00	3.00	\$100,000		
	15-year fixed	9.00	3.00	\$100,000		
	1-year adj.	7.13	1.25	\$153,100		
Railroad Savings	30-year fixed	9.00	2.00	\$153,100		
	15-year fixed	8.75	2.00	\$153,100		
	1-year adj.	7.00	2.00	1		
Wichita Fed. S & L Assoc.	30-year fixed	9.00	2.00	\$133,200		
	15-year fixed	8.75	2.00	\$133,200		
	1-year adj.	7.75	2.00	\$133,200		

### **Borrowing rates**

Banks	Prime	Auto terms:	Personal terms:2	Home equity terms:3
Bank IV Wichita	8.00	9.90	13.00	11.38
Boulevard State Bank	8.75	10.50	16.00	N/A
First Nat'l Bank in Wichita	8.00	8.80	18.00	11.25
Kansas State Bank & Trust	8.00	9.00	15.00	· N/A
Union National Bank	8.00	9.50	13.00	11.50
1\$10,000 loan, 48-month 20% down fixed rate		loan, 36-month ed fixed rate	2\$25,000 t variable in	5-yr. secured t. rate
N/A - Not Available		Rates of	ective as of Feb. 3	

## **Current tax-exempt bond Issues**

issue	Coupon	Maturity	Yield
Overland Park, Kan. Industrial Revenue Bonds, Series 1988, (Burlington Northern Railroad Company) <sup>1</sup>	5.20	12/1/90	5.20
U.S.D. No. 266, Sedgwick County, Kan. (Maize) General Obligation Refunding and Improvement Bonds, AAA 1	5.60	12/1/95	5.60
Wichita, Kan. Industrial Revenue Refunding Bonds (Jayhawk II, Ltd., a Kansas Limited Partnership) 1	8.00	12/1/01	8.00
Lenexa, Kan. Industrial Revenue Bonds (Brunswick Corporation) 1	7.15	9/1/04	6.95
Wichita, Kan. Industrial Revenue (North Emporia Building Co.) <sup>2</sup>	10.50	8/1/01	9.00
Garden City, Kan. Community College Student Union & Dormitory Revenue <sup>2</sup>	5.00	7/1/93	5.50
Sedgwick County, Kan. USD 266 General Obligation (Malze)	5.00	10/1/92	5.00
1 Ranson & Co.	² J.O. Davids	on & Associates, In-	c.

2-11-87



#### KANSAS ASSOCIATION OF REALTO

Executive Offices: 3644 S. W. Burlingame Road Topeka, Kansas 66611 Telephone 913/267-3610

T0:

SENATE JUDICIARY COMMITTEE

FROM:

KAREN MCCLAIN, DIRECTOR, GOVERNMENTAL AFFAIRS

DATE:

FEBRUARY 11, 1987

SUBJECT: SB 136, INTEREST ON TENANT SECURITY DEPOSITS

The Kansas Association of REALTORS® comes today to oppose SB 136.

We oppose the bill for four reasons. First, and most important we oppose the concept of the bill and we feel the bill will act as a deterrent for people to own apartments. Security deposits usually only cover a small amount of the damage costs to apartments. The amount which a landlord can require a tenant to pay for a security deposit is limited by law, already, to the amount of one month's rent. A requirement to pay interest on the security deposit only further reduces the value of having a security deposit, and increases the amount of cost and risk in being involved in rental property. The increased risk can only act as a deterrent for apartment owners to stay in the business, or to get into it.

Second, the 10% interest amount is onerous. While interest rates are relatively low for mortgages, keep in mind that the interest which someone can earn on a CD, or a money market account is at an all time low, averaging about 6%. Yet the bill would impose a 10% requirement.

Security deposits are not held long enough for any great profit to be made from the interest earned, as seems to be presumed by the bill. The average deposit for a lease is only held for a year, thereby preventing the landlord from being able to invest it any long term investment which might even come close to earning 10% interest, if they were able to find it at all.

Security deposits are more likely to be placed in passbook accounts, which have no time limits and which are paying an average interest of only 54%--far below the 10% figure. An apartment manager in Wichita related to me that apartment owners place their security deposits in a non-interest bearing escrow account, which the bank charges a service charge for, because of the volume of transactions in and out of the account.

Third, we think it is highly likely that if this bill were to become law, the IRS will require apartment owners to issue the same 1099 earned interest statements which lending institutions are required to send each year. Imagine the bookwork involved here in trying to track down an address for each tenant!

Last, we want to point out that apartment owners are not bankers. Tenants pay security deposits in order to cover the risk of damage involved for the apartment owners, not so they can earn interest on their money. The bill may actually force apartment owners to raise the monthly rents in order to cover the cost of paying the interest, thereby causing a dramatic rent increase across the state.

In <u>conclusion</u>, we feel this bill is bad public policy at a time when any form of economic development is being sought after by the state. The detriment to the apartment owners far outweighs any good which might come of it.

Accordingly we ask that you do not pass this bill out favorably. Thank you.

## THE ASSOCIATED LANDLORDS OF KANSAS, INC.

PO Box 86026, Topeka, Kansas 66686 (913) 272-0058

AREA CHAPTERS

Hutchinson, Johnson County, Kansas City, Lawrence, Salina, Shawnee County, & Wichita

Wednesday, February 11, 1987

Testimony submitted by Harold Shoaf, Legislative coordinator for The Associated Landlords of Kansas Inc., 4545 West 21st, Topeka, Kansas 66604.

To the Senate Judiciary Committee in oposition to SB136.

Mr. Chairman and members of the Committee, my name is Harold Shoaf. I am legislative coordinator for The Associated Landlords of Kansas, a statewide association. The people I represent normally work an 8-hour day at some job and take care of their rentals on evenings and weekends.

SB136 relating to payment of interest upon security deposits in our opinion is not in the best interest of either the landlords or the tenants.

As regarding the landlords, most of them do their own bookkeeping. If this bill is enacted, it would cause them to become instant CPA's — of a sort — in order to comply with federal regulations. There would be a tremendous amount of bookkeeping and untold hours in preparing and filing the appropriate federal and state tax forms.

Security deposits are not money makers for the landlords, but are necessary requirements to insure against heavy losses to a

Attach . II Servate Judiciny 2-11-87 property owner. Unfortunately, sometimes a property is damaged for beyond the security deposit. A small operator can lose his profit for the entire year on a house by extensive damage.

Security deposits are covered in detail in KSA58-2550 in the Landlord/Tenant Act. Limitations on the amount of the security deposit a landlord may collect is very clear. Requirements for return of security deposits are likewise clear.

As regarding the tenant, such a bill would result in higher rents. In order to stay in business every expense must be offset by income. This would be true of an added expense in interest.

According to Research Data Inc. Topeka, many tenants leave without supplying a forwarding address. Data collected over a 3-month period revealed that 26% of renters move at least twice a year. Of this group, 48% left no forwarding address. These tenants will not be aware of the interest he or she has realized on their deposit.

Let us assume the landlord sent the notice of interest to the last known address of the tenant and has properly notified the Internal Revenue Service. Two years later the IRS finds the tenant and assesses penalties against him for not reporting interest he never received.

If, in error, the landlord does not obtain the tenant's social security number, 20% of the intesest earned must be withheld which eventually goes to the federal government.

This bill is a bookkeeping nightmare which our association believes neither landlord nor tenant should be burdened with.

We recommend the committee report the bill adversely.

Thank you, Mr. Chairman for the opportunity to appear before your committee.



#### TESTIMONY BEFORE SENATE JUDICIARY COMMITTEE

Opposition to Senate Bill No. 136

Ву

Maggie Johnson, C.P.M. Wheatland Property Management, Inc.

February 11, 1987

Senate Judiciary. 2-11-87 Thank you for allowing me the opporutnity to express my concerns to you about Senate Bill No. 136

I am the President of Wheatland Property Management, Inc. a contract management company representing over 50 owners of rental property in the Topeka community. I have been actively involved in the industry for almost 10 years and hold a Certified Property Manager Designation through the Institute of Real Estate Management, a division of the National Association of Realtors. I am a licensed real estate broker and currently serve on the Board of Directors for the Topeka Board of Realtors.

As an active participant in this industry I am aware of the concern property owners and managers have about the potential effect of the new federal tax legislation on our business. Many of the initial incentives of ownership of rental property have been eliminated. Unfortunately, some of the tax incentives served as a subsidy for the rental industry by allowing the owners to keep rental rates lower and still receive tax advantages. With these changes on the horizon, landlords will be looking at every possible method to minimize expenses or maximize revenues.

Based on the current condition of this industry, I feel it would be an added burden to require landlords to pay interest on the security deposits. This is an added expense the landlord must absorb or divert to the tenant in the form of increased rent.

In addition to the added expense of paying interest on the deposit, we would be subject to federal reporting for interest income. This will result in added expense on the part of the landlord for forms and labor to meet these requirements. We would be in a position of having to obtain

social security numbers on all our residents and of following back-up withholding procedures on those for whom we have not received a certified tax ID number. Considering the transient nature of many of our residents we would also be faced with the difficulty of pursuing residents who move without providing notice or a forwarding address.

The ultimate result of this piece of legislation is increased rental rates for our residents. I do not believe this recommendation will prove beneficial to either the landlord or the tenant.