

**As Amended by House Committee**

*Session of 2004*

**HOUSE BILL No. 2655**

By Representative Jack

1-29

10 AN ACT concerning civil procedure for limited actions; relating to ad-  
11 missions of facts; amending K.S.A. 2003 Supp. 61-3101 and repealing  
12 the existing section.

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2003 Supp. 61-3101 is hereby amended to read as  
16 follows: 61-3101. (a) When an answer has been filed in an action or if the  
17 defendant appears and disputes the claims in the petition commenced  
18 pursuant to the provisions of the code of civil procedure for limited ac-  
19 tions, any party may submit to any other party a written request for that  
20 party to admit:

21 (1) The genuineness of any relevant document described in and at-  
22 tached to the request; or

23 (2) the truth of any relevant matter of fact set forth in the request.  
24 The request shall be in a form which will permit the party to whom it is  
25 submitted to answer the questions on the request form under oath. A  
26 request for admissions may not contain more than 10 requests unless  
27 permission of the court is obtained to increase the number.

28 (b) Each of the matters requested shall be deemed to be admitted  
29 for purposes of the pending lawsuit, unless within 15 days after the re-  
30 quest is served, the party to whom the request is directed submits to the  
31 party propounding the request either:

32 (1) A sworn statement denying specifically the matters requested; or

33 (2) written objections on the ground that some or all of the requested  
34 admissions are privileged or irrelevant or that the request is otherwise  
35 improper in whole or in part.

36 (c) If the answering party cannot truthfully admit or deny a request,  
37 the party shall set forth in detail the reasons why. If the answering party  
38 denies a request, the denial shall be in good faith and shall fairly address  
39 the substance of the request. If in good faith the answering party can  
40 deny only a part of the request or qualify a request, the party shall specify  
41 which part is admitted and qualify or deny the remaining part. If the  
42 answering party objects to a request, the party shall notify the court and  
43 the party propounding the request and schedule a hearing on the objec-

1 tion to be held within 10 days after making the objection.  
2 (d) *The judge may permit withdrawal or amendment of any admis-*  
3 *sion when the presentation of the merits of the action will be subverted*  
4 *thereby* **made by nonresponse when the party to whom the admis-**  
5 **sions were sent shows good cause for failure to respond and shows**  
6 **evidence that the admission is not true and the party who obtained**  
7 *the admission fails to satisfy the judge that withdrawal or amendment*  
8 *will prejudice such party in maintaining such party's action or defense*  
9 *on the merits. In the event such withdrawal or amendment is made*  
10 **by the party to whom the admissions were sent at trial, the party**  
11 **who obtained the admissions shall be allowed a continuance of the**  
12 **trial setting.** *Any admission made by a party under this section is for*  
13 *the purpose of the pending action only and is not an admission by such*  
14 *party for any other purpose nor may it be used against such party in any*  
15 *other proceeding.*  
16 Sec. 2. K.S.A. 2003 Supp. 61-3101 is hereby repealed.  
17 Sec. 3. This act shall take effect and be in force from and after its  
18 publication in the statute book.