

MINUTES OF THE House COMMITTEE ON Agriculture and LivestockThe meeting was called to order by the Chairman, Bill Fuller at
Chairperson1:15 ~~am~~ p.m. on March 2, 1984 in room 423-S of the Capitol.

All members were present except: Rep. Rezac, who was excused.

Committee staff present:

Raney Gilliland, Legislative REsearch Department
Norman Furse, Revisor of Statutes Office
Kathleen Moss, Committee Secretary

Conferees appearing before the committee:

The meeting was called to order by the Chairman, Bill Fuller. He announced that the committee would continue deliberations and consider action on the other dairy bills, HB 3072 and HB 3073.

It was moved by Rep. Solbach and seconded by Rep. Polson that HB 3072 be recommended favorably. Motion carried.

The Chairman noted that HB 3073 concerns the licensing and fees for filled ice cream and filled ice milk products. It was moved by Rep. Polson and seconded by Rep. Teagarden that HB 3073 be recommended favorably. Motion carried.

The Chairman directed attention to HB 3032, concerning the problems with spilled livestock loads. It was moved by Rep. Eckert and seconded by Rep. Goosen that HB 3032 be reported adversely. Rep. Solbach offered a substitute motion that HB 3032 be re-referred to the Federal and State Affairs Committee. Upon vote, the substitute motion failed. It was moved by Rep. Hamm and seconded by Rep. Shelor that HB 3032 be reported favorably. Rep. Goosen offered a conceptual substitute motion amending the bill to allow the spilled load exemption only when trucks are traveling open roadways but not allow the exemption when operating in any city or municipality, and that the bill be reported favorably. The substitute motion was seconded by Rep. Solbach. After discussion and explanations of how the exemption would work, the substitute motion failed. The original motion to report HB 3032 favorably, was passed.

HB 3057, concerning amending the Farm Tenancy Act, was discussed. Rep. Campbell distributed copies of proposed amendments. (See Attachment No. 1.) He also included an Attorney General's Opinion. (See Attachment No. 2.) Rep. Campbell explained the amendments and stated that while something needs to be done, he is not comfortable with the bill. He moved to table HB 3057, which motion was seconded by Rep. Solbach. Motion carried. The Chairman stated he would request an interim study on the subject.

The Chairman explained that the sponsor of HB 3071, regarding the eradication of prairie dogs indicated that negotiations are taking place with the Fish and Game Commission and the situation may be addressed by rules and regulations. He urged that the bill be passed out to encourage the Fish and Game Commission to continue to work in good faith. Staff reminded the committee of a proposed amendment on Line 61 deleting language, and read it as it should be. It was moved by Rep. Apt and seconded by Rep. Hamm that the amendment be adopted. Motion carried. It was moved by Rep. Johnson and seconded by Rep. Polson that HB 3071 as amended, be reported favorably. Motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Agriculture and Livestock,
room 423-S Statehouse, at 9:00 a.m./~~xxxx~~ on March 2, 1984

The Chairman directed attention to HB 3073, and reminded the committee that there had been discussion about making reference to the definition of frozen dairy dessert, and asked if the committee would want to reference that definition in the bill. It was moved by Rep. Arbuthnot and seconded by Rep. Teagarden, that "frozen dessert" be defined in the bill and that the bill be recommended for passage. Motion carried.

The Chairman noted that an amendment to HB 2990 needed to be applied to HCR 5078 as well. It was moved by Rep. Shelor and seconded by Rep. Long that the committee reconsider its action on HCR 5078. Motion carried. It was then moved by Rep. Hamm and seconded by Rep. Shelor that the Revisor be requested to prepare an amendment for HCR 5078 making it compatible with the changes in HB 2990. Motion carried. It was then moved by Rep. Polson and seconded by Rep. Shelor that HCR 5078, as amended, be reported favorably. Motion carried.

The meeting was adjourned at 1:57 P.M. The next meeting is scheduled for

Sec. . K.S.A. 58-2506 is hereby amended to read as follows: 58-2506. ~~(a)--Except-as-may-be-otherwise-provided-by this-section-or-by-a-written-lease-signed-by-the-parties-thereto, in-cases-of-tenants-occupying-and-cultivating-farms-the-notice-to terminate-such-a-farm-tenancy-must-be-given-in-writing--at--least 30--days--prior--to--March--1-and-must-fix-the-termination-of-the tenancy-to-take-place-on-March-1.~~ (a) Except as may be otherwise provided by this section or by a written lease signed by the parties, in cases of tenants occupying and cultivating farms, the notice to terminate such a farm tenancy must be given in writing at least 60 days prior to the date fixing termination of the tenancy.

(b) When a notice of termination is given pursuant to subsection (a) or (d) after a fall seeded grain crop has been planted, as to that part of the farm which is planted to a fall seeded grain crop on cropland which has been prepared in conformance with normal practices in the area, the notice shall be construed as fixing the termination of the tenancy of such portion to take place on the day following the last day of harvesting such crop or crops, or August 1, whichever comes first.

~~(c) When-a--notice--of--termination--is--given--pursuant--to subsection--(a)--after-the-30th-day-preceding-March-1-and-prior-to the-planting-of-a-fall-seeded-grain-crop-on--cropland--which--has been--prepared--in-conformance-with-normal-practices-in-the-area, in-any-year-in-which-a-fall-seeded-grain-crop-has-been-or-will-be harvested,--the--notice--shall--be--construed---as---fixing---the termination--of--the--tenancy-of-that-part-of-the-farm-devoted-to fall-seeded-grain-crops-on-the-day--following--the--last--day--of harvesting--such-crop-or-crops-in-the-succeeding-year-or-August-1 of-such-succeeding-year,--whichever-comes-first.~~ When a notice of termination is given pursuant to subsection (a) or (d) after a spring seeded crop has been planted on cropland which has been prepared in conformance with normal practices in the area, the

notice shall be construed as fixing the termination of the tenancy of that part of the farm devoted to spring seeded crops on the day following the last day of harvesting such crop or crops.

(d) Subject to the provisions of subsections (b) and (c), a farm tenant becomes a tenant from year-to-year by occupying the premises after the expiration of the term fixed in a written lease, in which case the notice of termination of tenancy must fix the termination of tenancy to take place on the same day of the same month following the service of the notice as the day and month of termination fixed in the original lease under which the tenant first occupied the premises. Such notice shall be written and given to the tenant at least 30 days prior to such termination date.

Sec. . K.S.A. 58-2506a is hereby amended to read as follows: 58-2506a. (a) When a notice of termination is given by the landlord pursuant to subsection (a) or ~~(e)~~ (d) of K.S.A. 58-2506, and amendments thereto, and the tenant prior to receiving such notice has: (1) Performed customary tillage practices or has applied or furnished fertilizers, herbicides or pest control substances; and (2) has not planted the ground, the landlord shall pay the tenant the fair and reasonable value of the services furnished and the fertilizers, herbicides or pest control substances furnished.

(b) Where a farm tenancy is terminated by the landlord ~~on March-1~~ pursuant to subsection (a) of K.S.A. 58-2506, and amendments thereto, and the tenant planted and obtained a satisfactory stand of alfalfa the preceding fall, the landlord shall pay the tenant the fair and reasonable value of all services performed in preparing and planting the alfalfa and for all of the tenant's expenditures for seed, fertilizer, herbicide or pest control substances.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ROBERT T. STEPHAN
ATTORNEY GENERAL

February 25, 1983

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ATTORNEY GENERAL OPINION NO. 83- 22

The Honorable Gerald (Jerry) Karr
State Senator, Seventeenth District
Senate Chamber, State Capitol
Topeka, Kansas 66612

Re: Personal and Real Property -- Landlords and
Tenants -- Termination of Farm Tenancies; Notice
Required

Synopsis: K.S.A. 1982 Supp. 58-2506 provides for the termina-
tion of farm tenancies, with the general rule being
that notice of termination must be provided at
least 30 days prior to March 1, at which time the
tenancy is terminated. While two exceptions to
this rule are provided, they deal only with fall-
seeded grain crops. Accordingly, if a notice is
given after the deadline and a spring-seeded grain
crop is put in, the exceptions do not apply and
the lease continues until March 1 of the succeed-
ing year. Cited herein: K.S.A. 1982 Supp. 58-2506.

* * *

Dear Senator Karr:

As Senator for the Seventeenth District, you request our
opinion on a question concerning termination of agricultural
leases. Specifically, you wish to know the circumstances
under which such leases can be ended pursuant to K.S.A. 1982
Supp. 58-2506. You indicate that some confusion exists as
to the rights of the parties to such a lease when spring-
seeded crops are involved.

As it presently reads, the portions of K.S.A. 1982 Supp.
58-2506 which are relevant to your inquiry state:

"(a) Except as may be otherwise provided by this section or by a written lease signed by the parties thereto, in cases of tenants occupying and cultivating farms the notice to terminate such a farm tenancy must be given in writing at least 30 days prior to March 1 and must fix the termination of the tenancy to take place on March 1.

"(b) When a notice of termination is given pursuant to subsection (a) after a fall seeded grain crop has been planted, as to that part of the farm which is planted to a fall seeded grain crop on cropland which has been prepared in conformance with normal practices in the area, the notice shall be construed as fixing the termination of the tenancy of such portion to take place on the day following the last day of harvesting such crop or crops, or August 1, whichever comes first.

"(c) When a notice of termination is given pursuant to subsection (a) after the 30th day preceding March 1 and prior to the planting of a fall seeded grain crop on cropland which has been prepared in conformance with normal practices in the area, in any year in which a fall seeded grain crop has been or will be harvested, the notice shall be construed as fixing the termination of the tenancy of that part of the farm devoted to fall seeded grain crops on the day following the last day of harvesting such crop or crops in the succeeding year, whichever comes first." (Emphasis added.)

The general rule is set forth in subsection (a), wherein it is provided that, in the absence of a written lease stating otherwise, a notice to terminate a farm tenancy must be given in writing no later than January 29 (January 30 in leap years), in order to be effective on March 1 of that year. By implication, therefore, a failure to meet this requirement extends the lease until March 1 of the following year. See, e.g., Grey v. Schmidt, 224 Kan. 375 (1978).

An examination of the history of this statute indicates that, while the basic recognition of the March 1 date stems from the statute's inception in 1868, it has been frequently amended in recent years. These amendments appear to have been in response to several decisions of the Kansas Supreme Court, the most recent of which was Grey, supra. In view of these changes, prior court decisions are of little assistance in

Gerald (Jerry) Karr
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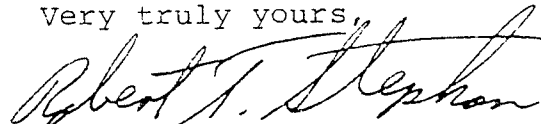
construing the specific application of the statute as it now reads. However, given the broad nature of the general rule and the narrowness of the two exceptions [at subsections (b) and (c)], a definitive opinion can be provided for your query.

As you posit them, the facts which give rise to conflicting interpretations concern the termination of a farm lease when the notice is received after the deadline has passed (i.e., after January 29/30). The tenant has already placed spring-seeded crops in the ground, which will be harvested by the end of October, given normal circumstances. As this allows for the planting of fall-seeded wheat on the same ground, you inquire whether the landlord may proceed to do so, or whether he is foreclosed from taking possession until the following March 1.

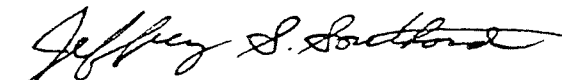
In our opinion, the statute is clear upon this point, as the two exceptions deal only with cases where a fall-seeded grain crop is either in the ground at the time the notice is received [subsection (b)] or the ground has been prepared therefor. As the situation presented here involves no concrete steps regarding a fall-seeded grain crop, the tenant who proceeds to prepare the land and put in such a crop after receiving notice must act at his own risk, as did the tenants in Grey, supra. Along the same line, however, in that neither exception acts to preempt the general rule, a landlord cannot enter prior to the usual termination date of March 1. Accordingly, where a spring-seeded crop is still in the ground, notice to terminate will be effective on the following March 1, per the general rule of K.S.A. 1982 Supp. 58-2506(a).

In conclusion, K.S.A. 1982 Supp. 58-2506 provides for the termination of farm tenancies, with the general rule being that notice of termination must be provided at least 30 days prior to March 1, at which time the tenancy is terminated. While two exceptions to this rule are provided, they deal only with fall-seeded grain crops. Accordingly, if a notice is given after the deadline and a spring-seeded grain crop is put in, the exceptions do not apply and the lease continues until March 1 of the succeeding year.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Assistant Attorney General