

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:00 a.m./~~p.m.~~ on March 28, 1985 in room 423-S of the Capitol.

All members were present ~~except~~:

Committee staff present: Raney Gilliland, Research Department
Arden Ensley, Revisor of Statutes Department

Conferees appearing before the committee: Marsha Hutchison, Kansas Fertilizer and Chemical Association
Jerry Boettcher, Vice President, Boettcher Enterprises, Beloit
Chuck Johnson, President, Johnson Elevators
Nancy Kantola, Kansas Cooperative Council
Bob Alderson, Kansas Oil Marketers Association
Bill Graves, Assistant Secretary of State
Jim Maag, Kansas Bankers Association
Marvin Umholtz, Kansas Credit Union League and Affiliates

Senator Allen called the Senate Agriculture Committee to order at 10:10 a.m.

Senator Gannon made a motion the minutes of the March 25 meeting be approved. Senator Karr seconded the motion. Motion carried.

Raney Gilliland explained HB 2488, as amended, would permit suppliers of agricultural production inputs to establish a superior security interest, in certain circumstances, over a lender in the proceeds of crops or livestock. This would occur when a supplier of agricultural production inputs notifies a lender by providing a lien notification statement, outlining the interest the supplier has in the proceeds of the crops or livestock. The bill requires the lender, within five business days, to respond to suppliers with either: a letter of commitment for part of or all of the amount in the lien notification statement or a written refusal to issue a letter of commitment. The bill permits the supplier to establish a priority lien if the lender does not respond to the supplier within the five business days. The supplier must file this lien within 20 days after the last date the agricultural production input was furnished in order to perfect the lien. The filing would take place through the Kansas Secretary of State's Office. The effective date of the act would be January 1, 1986.

Senator Allen called on Marsha Hutchison the first proponent to testify. Ms. Hutchison expressed support for the bill and recommended amending line 152, page 4 of the bill as follows: A comma rather than a period should follow the word "proceed" and the sentence would continue: "except that the lien does not continue after a cash sale". This additional wording will bring section 4, 3 (b) in conformity with the preceding paragraph 3 of section 4. Ms. Hutchison stated the Secretary of State's office had some amendments to offer and that the Kansas Fertilizer and Chemical Association is in agreement with those changes also. (see attachment A). Ms. Hutchison introduced Jerry Boettcher to testify, and Chuck Johnson who would follow Mr. Boettcher.

Jerry Boettcher expressed support for HB 2488. (see attachment B).

Chuck Johnson explained his elevator business has been losing money because farmers are unable to pay. Mr. Johnson expressed support for HB 2488 which would provide a framework for elevators to be able to collect monies due them.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:00 ~~a.m.~~ p.m. on March 28, 19 85

Senator Allen called on Nancy Kantola, a proponent, to testify.

Nancy Kantola stated the Kansas Cooperative Council recommended that in line 101 of the bill the word "five" be changed to "ten" and then the committee recommend HB 2488 favorably for passage. (see attachment C).

The next proponent to testify was Robert Alderson who expressed support for HB 2488 which would help farmers receive agricultural supplies on credit. (see attachment D).

Bill Graves, Assistant Secretary of State, was the next proponent to speak. Mr. Graves proposed some amendments for HB 2488. (see attachment E).

The chairman called on Jim Maag, a proponent, to testify.

Jim Maag expressed support for the bill with the amendments he proposed. (see attachment F).

Senator Allen called on Marvin Umholtz, an opponent, to testify.

Marvin Umholtz expressed the feeling that this proposed legislation was unnecessary. (see attachment G).

Senator Allen announced the committee would meet at 8:00 a.m. and 10:00 a.m. tomorrow and then declared the committee adjourned at 11:00 a.m.

GUEST LIST

COMMITTEE: SENATE AGRICULTURE

DATE: March 28, 1985

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
M. Hawver	Topeka	Cap-Journal
Jim Maag	"	Ks BANKERS Assoc.
Joe & Lieber	"	Ks Co-op Council
BOB KNIGHT	PRINCETON, Ks.	KNIGHT OIL INC.
BILL FLOREA	Wellsville Ks	S/E acct.
Chlen FRANK	WELLSVILLE, Ks	WELLSVILLE BANK
Harold Taylor	Wellsville KS	Taylor & D. Inc. ^{KOMPA}
Bill Graves	Topeka	Sec. of State
Ivan W. Wyatt	McPherson	Ks Farmers Union
Jan Joss	Topeka	Sec of State
Kou Rissler	✓	KLP GAS ASSN.
David A. McFarlane	RR3 Baldwin city	K Ag Association
Greg King	1910 W. 3rd Lawrence, Ks	Bohm and Hoas Co.
Dwight Zink	Prury, Kansas	Prury & Co. Inc.
Mike Pearl	St. Marys	Ks Fert & Chem. Assoc.
Charles R. Kuntz	Honeyville, Ks	Honeyville Seed Co. (KFAA) (KFCA)
Michael L. Kleiber	Hillsboro Ks	Ag Service Inc.
Geneva Brink	Hudson, Ks.	Stafford County Flour Mill
Leonard R. Berlin	Hudson Ks	Stafford County Flour Mill
Mike Von Camp	Turton, Ks	Turton Mill & Elev.
Nancy Kantola	Topeka	Kans. Co-op Council
Sue Schneider	Topeka	Ks. Credit Union League
M.C. Umholtz	Topeka	KCUU
Chuck Johnson	Mentor Ks	KFCA

Douglas F. Bultman
President and
Chief Executive Officer

NORWEST BANKS

Norwest Bank Redwood Falls, N.A.
300 South Washington Street
Post Office Box 439
Redwood Falls, Minnesota 56283
507/637-5731

March 25, 1985

Senator Jim Allen, Chairman
Senate Agriculture Committee
The Statehouse
Topeka, KS 66612

Dear Senator Allen:

Recently it came to my attention that Kansas legislature was considering a new state law to alter supplier credit procedures. We in Minnesota passed a law similar to yours in 1984 and to date it is working very very well. The law we passed was put together by a very diverse group. The group was made up agricultural suppliers, farmers, representatives of the farm credit system and legislators.

We are seeing the results of our efforts at present. One of the fears at the time the bill was put together was the fact that everyone thought there would be a mountain of paperwork which would further complicate a farmers receiving credit. This, to date, however has not been the case. The direct result of the law has been not as much paperwork as expected but many farmers and suppliers are now discussing credit needs well before planning. In past years credit terms were probably never discussed with suppliers prior to planning. For those farmers in very good shape, we think the law will help them by helping their suppliers to stay in business. On the other side, it appears that the law may reduce the amount of credit available for some farmers who are already in real bad shape.

What the law has done which is most beneficial is that it forces suppliers and bankers to communicate more than at any time in the past. It appears that actual liens filed by suppliers will be very rare. The prime role of the priority lien is to encourage lenders to cooperate with the formal credit check procedure outlined in the law. Under our law before a purchase is approved the supplier may ask the farmer to sign an agricultural lien input notification form. This begins the formal credit checking process. On the form ag supplies covered under credit requests, their value and use are listed. In addition crop or livestock proceeds to be covered by potential lien are outlined.

Senator Jim Allen
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March 25, 1985

Next the lien form is hand delivered or sent by certified mail to the farmers lender or lenders. The lender is given 10 calendar days to respond. The lender can respond in any of three ways, each of which may affect the willingness of the supplier to provide credit. First, the lender can provide a letter of commitment to the supplier for any or all of the amount, the lender guarantees payment for inputs listed on the notification form. Second, the lender can send a letter refusing to provide a letter of commitment. This tells the supplier the payment will not be guaranteed. The third possibility is that the lender does not respond during the 10 day period. In this case the priority portion of the lien comes into place. The supplier then can file a notification form with the county recorder in the customers county of residence. Once it is filed the supplier has a lien with priority over liens previously filed by the lender. We think that the law is proving to be a good one and will adequately protect the interests of both the supplier and the banker. The major benefit is going to be because of the fact that there will no longer be lengthy litigation in sorting out lien positions.

As I stated earlier, the biggest benefit so far is that the law has forced suppliers and bankers to communicate as never before. This in itself saves future problems.

Sincerely,



Douglas F. Bultman
President

DFB:sks

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KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Box 1392

Hutchinson, Kansas 67504-1392

316-662-2598

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE SENATE COMMITTEE ON AGRICULTURE

SENATOR JIM ALLEN, CHAIRMAN

HOUSE BILL 2488

MARCH 28, 1985

Chairman Allen, members of the committee, I am Marsha Hutchison, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association which has over 400 members. Our Association is a voluntary organization comprised of agribusiness, manufacturers, and sales representatives who handle the sale and/or application of products such as fertilizer, chemicals, lime, feed, seed and petroleum.

I would like to present some brief background information regarding our Association's involvement in developing an agricultural production input lien law as presented in HB 2488. I will then turn the podium over to Jerry Boettcher and Chuck Johnson, both members of the KFCA Board of Directors, who have come to express the producer credit problems being experienced by ag input suppliers in today's economy.

Difficulties with uncollectable accounts receivables have continued to increase for KFCA members over the past few years. KFCA's legislative committee and board of directors decided some time ago to become the primary leader in aggressively pursuing and developing a method which would allow

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attachment A

ag suppliers a more secure position for open credit lines that are extended to producers who may be questionable credit risks.

HB 2488 is the result of hours of conversation, research, and effort between a multitude of concerned individuals and organizations. A few of those involved with this effort in addition to KFCA members include Association attorneys, the Kansas Grain & Feed Dealers Association, the Kansas Oil Marketers Association, and the Kansas Coop Council. Meetings were held with staff and members of the Kansas Bankers Association as well to discuss concerns, differences and possible solutions.

We also consulted with Association executives in states such as Minnesota, Iowa and Nebraska who participated in developing this type of legislation. In Minnesota, the lenders and ag input suppliers worked closely together which resulted in a law benefiting all parties. Conversation with John Jackson, legal counsel for the Minnesota Bankers Association, and other Minnesota bankers has verified the Minnesota system which is very similiar to that proposed in HB 2488 is working very well. For your review, you will find a letter attached from Doug Bultman, President of Norwest Bank Redwood Falls, Minnesota. Mr. Bultman attests to the benefits of the lien-notification system for both suppliers and bankers.

During hearings in the House Agriculture & Small Business Committee, several technical questions were raised by the Kansas Livestock Association which involved language pertaining to their interests. A few minor changes were made to address their concerns, and frankly we thought they were handled at that time. However, it has come to our attention that one sentence was inadvertently missed. We would, therefore, recommend amending line 152, page 4, as follows: A comma rather than a period should follow the word "proceed" and the sentence would continue: "except that the lien does not

continue after a cash sale". This additional wording will bring section 4, 3 (b) in conformity with the preceding paragraph 3 of section 4.

Conversation with the Secretary of State's office indicates a need to further clarify language and procedures relating to their responsibilities. Those seven proposed changes will be presented in detail by the Secretary of State official, and I think it's important to stress that KFCA is in agreement with those suggested revisions.

Mr. Chairman and members of the committee, we urge your support for HB 2488. I would be happy to answer any questions you might have at this time or perhaps at the conclusion of the testimony by Jerry Boettcher and Chuck Johnson.

March 23, 1985

Testimony before the Kansas Senate Agriculture Committee, on
House Bill 2488, Agricultural Input Lien --

My name is Jarold Boettcher. I am Vice President of Boettcher Enterprises in Beloit, Kansas. Our Company is involved in retail sales of fertilizer, chemicals, and other parts and supplies to farmers. We have over 30 retail outlets in North-central Kansas and Southern Nebraska, and have about 4000 customers.

We support a change in the Kansas Lien Law to more equitably treat the typical retail seller in the farm credit system. We thus urge your support of House Bill 2488.

The farmer has access to many sources of credit and financing, including his cash flow, banks, the PCA, FmHA, the Federal Land Bank, Insurance companies, and finally, at the stage where we are involved, from his local supplier of agricultural inputs, the fertilizer dealers, the fuel suppliers, etc. We have heard a great deal about stress and problems in farm credit. Most, but perhaps not all, of what we have heard is true. Going back a few years, a typical farmer might use the Federal Land Bank or an Insurance company to finance land debt and use a local bank or PCA for short term credit, for crop inputs and supplies. These short term loans were self-liquidating and repaid with the proceeds of the crops being financed. The cash from the loans was used to pay for feed, seed, fuel, fertilizer, etc. But, something happened over the past 10 years which has caused this functioning system not to work very well any more. The net result has been to force the ag input supplier to become yet another creditor in the system,

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and not just a short term creditor either. In many cases, the retailer has, by default, become an intermediate term or even long term lender. Moreover, the retailer is probably extending such credit unsecured. We have become lenders, without our wanting to be, and without the means, personnel, or resources, to engage in lending.

The old operating line simply does not exist any longer for many farmers. The lines are full and not being repaid. They are rolled over or renewed, but little new credit is being extended. Why are the lines full? The answer is the general financial plight of the farmer. In addition, however, all of us know that payments from the operating lines of credit have been made for non-operating purposes, such as to make payments to the Federal Land Bank, or for down payments on machinery, or for other purposes. Over time, the lenders have attached all collateral they can and have taken second mortgages on land and machinery, shoring up their own position where possible. Many credit lines are further secured by blanket, 5 year crop mortgages, but no net new money has been advanced or will be advanced. We, the retail dealer in ag inputs have thus become the lender of last resort. With all the assets tied up, however, we are either unsecured, or at best can only become second to a secured lender, or lastly, we can depend upon the basic honesty of our farmer customers and the good will of the lender to divert or permit to be diverted, some crop proceeds to pay our open, unsecured accounts, To rely upon good will and good intentions are noble virtues, but they are probably not a sound

basis for good business decisions. Lendors must agree, else they would not be so thorough in securing assets.

We have good communications with many lendors. We must have these dialogues. We owe many of them ourselves. We are not in possession, however, of the resources, personnel, or legal status of lendors. One of the results of passage of House Bill 2488 will be to improve communications, to the betterment of all, the lendor, the ag input supplier, and the farmer. Everyone says they want and support better communications. This bill will make that possible.

I would like to give you one illustration of our situation where this new law would have been effective and brought about simple equity in extending credit. We took a farmers word that he had a crop that was not mortgaged. This was in the Fall, 1983. We furnished fertilizer at that time, with the bill totaling about \$5000. We filed the papers and depending upon the wheat crop, thought we would be paid. In early 1984, we became aware that the farmers bank had a prior, blanket crop mortgage and that we were second. Total debt to the bank was about \$10,000, with no new money advanced for over 2 years. The farmer sold his wheat in the Fall, 1984. Coincidentally, the proceeds were about \$10,000. The bank was paid in full. We got zero. That's not fair. There just isn't any other description to give. We provided the inputs to raise the crop and the bank got all the money.

Thank you for your attention. I urge you to vote favorably on House Bill 2488. Other states around us -- Iowa, Minnesota, and Nebraska -- already have done so. With only minor changes, the law proposed for Kansas is identical with the Iowa law. We do not want to be a lender, but if forced to become one, we believe we should be able to acquire a security position which is consistent with the risk we are assuming. That is not the case now.

Testimony of
Nancy E. Kantola
Executive Vice President
Kansas Cooperative Council
to
Senate Ag Committee
March 28, 1985

RE: HB 2488

Mr. Chairman, members of the Committee, I am speaking on behalf of our Council membership, made up of supply and marketing co-ops who provide Ag inputs such as fuels (187 million gallons in '84), fertilizer (600,000 tons), chemicals (32 million dollars worth), seed and various other farm needs.

We also have in our membership lenders, such as the Production Credit Associations, Federal Land Bank Associations and even some credit unions who make farm loans. PCAs, who, of course, specialize in production loans had \$847 million dollars outstanding in 1984 in Kansas alone.

In most instances lenders and suppliers have the good communication necessary to assure that the farmer is not overextended on the credit needed for seasonal inputs.

This Bill, HB 2488, requires that communication to take place and would probably be used only in those situations where some indication of financial problems exist, or when a lender refuses to make a commitment for production cost credit.

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Co-ops who not long ago felt obligated to extend credit to members have now tightened credit policies. They simply cannot afford to be lenders as well as suppliers nor do they have the expertise to be making decisions on financing farmers.

Our co-op lenders do have concerns about the five business days limit for response and would like to have 10 days. They cite seasons when the paperwork is very heavy and a consultation with the farmer is necessary which may be difficult to arrange within the five days.

We urge you to amend the response time to 10 days and recommend HB 2488 for passage.

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PREPARED TESTIMONY IN SUPPORT OF HOUSE BILL NO. 2488

TO: Senate Agriculture Committee
FROM: W. Robert Alderson
Kansas Oil Marketers Association
DATE: March 28, 1985

The Kansas Oil Marketers Association (KOMA) appears in support of House Bill No. 2488. KOMA is a statewide association representing the interests of approximately 700 petroleum distributors. The association supports the proposal contained in H.B. 2488 to create a new alternative for extending credit to farmers and agribusinessmen.

The Problem: Continued Credit Sales to Farmers.

As a supplier of products necessary for agricultural production, petroleum distributors, like other ag-suppliers, have been hurt financially by the crisis in agriculture. When our distributors purchase fuel they are required to pay their supplier in full within a short time, generally within 10 days to two weeks. This requires oil jobbers to be cautious in extending credit to customers. Our members want to continue to extend credit to our ag-customers, but the agriculture crisis has left many farmers in a financial condition which makes the extension of credit by ag-suppliers a high risk situation.

House Bill No. 2488 Should Benefit Farmers, Ag-Suppliers, Lenders and the State of Kansas.

H.B. 2488 proposes an attractive alternative to the current time consuming and often ineffective method of creating liens in favor of ag-suppliers.

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Farmers

The alternative procedure is beneficial to farmers as it allows a quick procedure by which farmers can obtain fuel, seed, fertilizer and other materials on credit when credit might not be otherwise available.

Ag-Suppliers

The procedure in H.B. 2488 is attractive to ag-suppliers as it provides suppliers with information from a farmer's lender about the farmer's financial condition. The procedure can also guarantee payment by the bank of the farmer's credit account with the supplier. By utilizing the letters of commitment, the paperwork and costs of filing security agreements and financing statements would be unnecessary.

Lenders

Lenders would benefit from H.B. 2488 as they will be kept currently advised of credit purchases related to the agribusinesses of farmer-customers. Many of our members have contacted their bankers to determine whether the bankers foresee any problems with the proposed procedure. The responses by individual bankers have been positive.

State of Kansas

The Secretary of State, which currently receives filings of liens by ag-suppliers, could experience a reduction in the number of lien filings if the procedure allowing the issuance of letters of commitments is utilized rather than the current lien procedure.

While H.B. 2488 may not be a perfect solution to the problem of extending credit to farmers, it is a step in the right direction. Other midwestern agricultural states have similar statutes which were enacted in response to the problems farmers began experiencing in buying production supplies on

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credit. The experiences of these states have been good. The time for implementation of H.B. 2488 is now in order to provide an additional procedure by which farmers might obtain agriculture supplies on a credit basis.

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PROPOSED AMENDMENTS TO HB 2488
(AS AMENDED BY HOUSE COMMITTEE OF THE WHOLE)

- 1) At line 85. Strike "disclose," insert "include."
- 2) At line 99. Strike "whether," insert "that."
- 3) Insert new subsection 3 (b) (7) "The date which notice was mailed to the lender."
- 4) Insert new subsection 3 (b) (8) "A signed statement by the supplier indicating that the lender did not respond to the lien verification statement."
- 5) Insert new subsection 3 (g) "An agricultural production lien statement shall be used only in the manner described in this section and shall not otherwise be used as a substitute for a financing statement filed under part 4 of article 9 of the uniform commercial code."
- 6) At line 164 through 166, strike the last sentence of section 5.
- 7) Strike section 5 (c) and replace with the following:

"The filing officer shall file, index, amend, maintain, remove and destroy the lien notification statement in the same manner as a financing statement filed under part 4 of article 9 of the uniform commercial code. The secretary of state shall charge the same filing and information retrieval fees and credit the amounts in the same manner as financing statements filed under part 4 of article 9 of the uniform commercial code."

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H B 2488

Section 1. This act shall be known and may be cited as the agricultural production input lien act.

Sec. 2. As used in this act . . .

(g) "Lien" means a lien for the unpaid retail cost of agricultural production input lien.

. . .

Sec. 3. (a) A supplier may notify a lender of a lien by ~~providing~~ delivering a lien-notification statement to the lender in an envelope marked "IMPORTANT-LEGAL NOTICE", addressed to the lender. Delivery of the ~~notice statement~~ shall be ~~made by~~ certified mail or another verifiable method evidencing date of receipt.

(b) The lien-notification statement must be in a form approved by the secretary of state, be signed by the purchaser, and disclose state the following:

- (1) The name and business address of ~~any~~ the lender;
- (2) the name and address of the supplier claiming the lien;
- (3) ~~a description and the date or anticipated date or dates of the transaction~~ furnishing agricultural production input, a description of the input, and the retail cost, management costs or anticipated retail costs of the agricultural production input;
- (4) the name, and residential address ~~and signature~~ of the person to whom the agricultural production input was or is to be furnished;
- (5) for crop production input, the name and residential address of the owner of the crops and a description of the real estate where the crops to which the lien attaches are growing or are to be grown, or, and for a lien attaching to livestock livestock production input, a description of the livestock and the location where the livestock will be or are being raised or fed; and
- (6) a statement whether the products and proceeds of the crops or livestock are covered by the lien.

(c) Within five business days after receiving a lien-notification statement, the lender must ~~respond to~~ furnish the supplier with either:

- (1) A letter of commitment ~~for~~ to advance part or all of the amount retail cost stated in the lien-notification statement; or

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(2) a written refusal to ~~issue~~ furnish such a letter of commitment.

(d) ~~(1) If a the lender responds with~~ furnishes a letter of commitment ~~for to advance~~ part or all of the ~~amount~~ retail cost stated in the lien-notification statement, or a written refusal to furnish such a letter of commitment, the lien of the supplier ~~may obtain a lien~~ shall not have priority over a previously filed perfected security interest of the lender.

~~(2) If a lender responds with a refusal to provide a letter of commitment, the rights of the lender and the supplier are not affected.~~

(e) If ~~a~~ the lender does not ~~respond to~~ send the supplier a letter of commitment or a written refusal to furnish a letter of commitment within five business days after receiving the lien-notification statement, a the lien for the unpaid retail cost of the agricultural production input stated in the lien-notification statement shall have priority over any a perfected security interest of the lender in the ~~same crops or livestock collateral~~ subject to the lien and proceeds thereof, for the lesser of:

~~(1) The amount stated in the lien notification statement;~~

~~(2) The unpaid retail cost of the agricultural production input identified in the lien-notification statement; or~~

~~(3) For livestock any limitation in subsection (b) of section 4.~~

(f) Subject to the limitation of ~~subsections (d)(1) and (d)(2)~~ subsection (d), a lien perfected ~~liens~~ established under this act ~~has~~ have priority over any and all other liens, except those created under K.S.A. 58-207 and 58-220, on the crops or livestock for which input is furnished.

Sec. 4. (a) A supplier who furnishes crop production inputs has a lien for the unpaid retail cost of the crop production inputs. Subject to the limitation of subsection (d) of section 3, the lien shall have priority over a security interest of ~~the~~ a lender only if perfected and if the supplier notifies the lender of his lien pursuant to section 3 in accordance with the provisions of subsection (e) of section 3. The lien attaches to:

(1) The existing crops upon the land where a furnished agricultural chemical was applied or if crops are not planted, to the next production crop within 16 months following the last date on which agricultural chemical was applied;

(2) the crops produced from furnished seed; or

(3) the crops produced, harvested or processed using a furnished petroleum product. If the crops are grown on leased land and the lease provides for payment in crops, the lien does not ~~attached~~ attach to the lessor's share of the crops. The lien continues in crop products and proceeds, except that the lien does not continue after a cash sale.

(b) A supplier who furnishes livestock production inputs has a lien for the unpaid retail cost of the livestock production input. Subject to the limitation of subsection (d) of section 3, the lien shall have priority over a security interest of the a lender only if perfected and if the supplier notifies the lender of his lien pursuant to section 3 in accordance with the provisions of subsection (e) of section 3. The lien attaches to all livestock consuming the feed and continues in livestock products and proceeds. A perfected lien that attaches to livestock may not exceed the amount, if any, that the sales price of the livestock exceeds the greater of the fair market value of the livestock at the time the lien attaches or the acquisition price of the livestock.

(c) A lien attaches when the agricultural production inputs are furnished by the supplier to the purchaser.

Sec. 5. (a) To be ~~perfect~~ perfected, the lien must have ~~attach~~ attached and the supplier entitled to the lien must have ~~file~~ filed a lien-notification statement in the form provided by section 3 with the appropriate filing office under K.S.A. 84-9-401 and amendments thereto within 20 days after the last date that the agricultural production input was furnished. The filing office shall charge the same filing fees for filing a lien-notification statement under this act as would be charged for filing a financing statement under the uniform commercial code.

(b) Subject to the provisions of section 3(d), a lien that is not perfected shall be entitled to the same priority as an unperfected security interest as determined by K.S.A. 84-9-312 and amendments thereto.

(c) The filing officer shall enter on the lien-notification statement the time and date of filing and shall file and note the filing of a lien-notification statement under this section in the same manner provided by K.S.A. 84-9-402 and amendments thereto for financing ~~statement~~ statements ~~under the uniform commercial code.~~

Sec. 6. The holder of a lien may enforce the lien in the manner provided in K.S.A. 84-9-501 to 84-9-504, inclusive, and amendments thereto. In enforcing the lien under such statutes, the lienholder shall be considered the secured party ~~and~~ , the person for whom the agricultural production input was furnished shall be considered the debtor, and each shall have the respective rights and duties of a secured party and a debtor under such statutes. The goods subject to a lien shall be

considered the collateral. If a right or duty under ~~the~~ these statutes is contingent upon the existence or waiver of such right or duty by express language in a security agreement, the right or duty shall be deemed not to exist.

Sec. 7. After a lien has been perfected, an action may be brought to enforce such lien in the district court of the county in which some part of the crop or livestock is located. A lien-notification statement may be amended, except for the amount ~~demanded~~ retail cost of inputs, by leave of the court in the futherance of justice. A lien is extinguished if ~~an action to enforce~~ the lien is not brought enforced within ~~18~~ 12 months after the lien-notification statement is filed.

Sec. 8. A lien shall not attach to crops planted before December 1, 1985.

Sec. 9. This act shall take effect and be in force from and after ~~January~~ February 1, 1986, and its publication in the statute book.

TESTIMONY ON H.B. 2488
AN ACT enacting the agricultural production
input lien act.

Presented to the
SENATE COMMITTEE ON AGRICULTURE

March 28, 1985
by the

KANSAS CREDIT UNION LEAGUE

Mr. Chairman, members of the Committee:

I am Marvin Umholtz, Vice President of Credit Union Development for the Kansas Credit Union League (KCUL). Our association represents 97% of the 168 state-chartered and 46 federally-chartered credit unions located in Kansas. Credit unions are non-profit financial cooperatives chartered under state or federal law which are owned by the people who save and borrow there. Kansas credit unions serve the personal financial needs of over 400,000 individual credit union members and have almost \$1 billion in combined assets. Kansas credit unions range in asset size from approximately \$26,000 to \$61 million and range in size of membership from 57 members to 25,000 members.

CU AGRICULTURAL LENDING

Credit unions in Kansas are best known for, and are in fact, primarily consumer lenders. However, for a limited number of credit unions located in parts of Kansas identified with agricultural production, agricultural lending can comprise a significant portion of the CUs' lending portfolio.

Through a telephone survey, KCUL staff has identified 15 credit unions, ranging in asset size from \$1.2 million to \$42.9 million, which provide agricultural lending services (crops, livestock, machinery, and agricultural real estate) to their members. The agricultural loan portfolios of these 15 CUs

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range from 3% to 85% of total loans. The dollar investment in agricultural loans by these credit unions individually range from \$0.135 million to \$14.0 million.

The combined statistics on these 15 credit unions indicates that of the \$165.8 million in total loans made by these credit unions, \$57.5 million, or 34.7% of total loans outstanding, are invested in credit union members who are involved in Kansas agriculture.

These credit union members live in and around the following Kansas communities:

Beloit	Hugoton	Plains
Dodge City	Hutchinson	Pratt
Elkhart	Liberal	Quinter
Ellsworth	Montezuma	Rolla
Garden City	Moundridge	Stockton
Hays	Norton	Sublette
Hesston	Oberlin	Ulysses
Hillsboro	Phillipsburg	

KCUL POSITION ON H.B. 2488

I appreciate having this opportunity to appear before the Committee in opposition to HB 2488, as amended, the agricultural production input lien act. In discussions with representatives of the credit unions which engage in agricultural lending, they indicated that while the lien notification process enacted by HB 2488 was not onerous, it would appear to establish an additional layer of unnecessary paperwork.

The CU representatives made the following points:

1. CUs are cooperative. In actual practice, these CU representatives regularly communicated with agricultural input suppliers, farmer/ranchers, the COOPs and others concerning business-related aspects of agricultural loans to

- CU members. One CU indicated that often all parties involved meet at the CU office to discuss a marginal situation and develop a plan of action to keep a farmer producing.
2. CUs assist their members. In trouble situations, the CU representatives indicated that the CU "hangs in with the borrower, after all, they are our members." One CU provided me with an example of a borrower with whom they spent six years assisting from a troubled condition to financial stability.
 3. Suppliers have alternatives. Agricultural input suppliers are in business-- suggesting that they should approach their operation in a business-like manner. If in doubt concerning a customer's ability to pay, they have the alternatives of : (1) lien search, (2) obtaining credit histories from the credit bureau, (3) calling the customer's lender for information, (5) subscribing to the area's legal notice or public record publication, (6) obtaining cash payment.

SUMMARY

Although credit unions are not major suppliers of agricultural loans in Kansas, at least 15 CUs have a stake in the success of their members who are engaged in agricultural production. The CUs take this role seriously, with an attitude of commitment and cooperation.

The provisions of HB 2488, while not having the negative impact on credit availability and lending policies that security interest priority changes like the one proposed by SB 289, the "clear title" bill would, in our opinion, create unnecessary additional paperwork.

There is no doubt that agriculture is under pressure in Kansas. It is unlikely that a "quick fix" will be found to cure its ills. Cooperation, commitment and determination are more likely to produce positive results. Efforts to stabilize the agricultural lending environment will not be benefited by "band-aide" adjustments to security interest priority statutes.

Thank you, Mr. Chairman, for this opportunity to provide our comments in opposition to HB 2488 to the Committee. I will respond to questions at your direction.