

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

8:00 a.m./p.m. on April 2, 1985 in room 423-S of the Capitol.

All members were present except: Senator Doyen (excused)

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

Conferees appearing before the committee:

Senator Allen called the committee to order at 8:05 a.m. Senator Norvell made a motion to approve the minutes of the March 27 committee meeting. Senator Arasmith seconded the motion. Motion carried.

Senator Allen called for committee action on HB 2003.

Senator Warren made a motion the committee recommend HB 2003 favorably for passage. Senator Gannon seconded the motion. Motion carried.

The chairman ask Raney Gilliland to complete explanations on the amendments suggested by the Bankers' Association on HB 2488 which will be followed by committee action. (see attachment A).

The chairman commented on suggested amendments made by the Feed Dealers' Association. (see attachment B).

After committee discussion Senator Kerr made a motion the committee accept the amendments suggested by the Bankers' Association and the Feed Dealers' Association and that the Revisor remove the word 'proceeds' from lines 144 and 152. Senator Karr seconded the motion. Motion carried.

Senator Kerr made a motion that Section 1 be removed from HB 2488. Senator Arasmith seconded the motion. Motion carried.

Senator Warren made a motion HB 2488 be recommended favorably for passage as amended. Senator Karr seconded the motion. Motion carried.

Senator Allen called for committee action on HB 2469.

Committee discussion centered around the proposed amendments to HB 2469 which include reinstating the statewide agricultural census. (see attachment C). Senator Thiessen made a motion the committee accept the proposed amendments to HB 2469. Senator Kerr seconded the motion. Motion carried. Senator Arasmith made a conceptional motion for a new section 4 which would include a statewide agricultural census which would start in 1988 and every five years thereafter. Senator Thiessen seconded the motion. Motion carried.

Senator Gordon made a motion the committee recommend HB 2469 favorably for passage as amended. Senator Thiessen seconded the motion. Motion carried.

Senator Allen declared the committee adjourned at 8:55 a.m.

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1985

HOUSE BILL No. 2488

By Committee on Agriculture and Small Business

2-22

0021 AN ACT enacting the agricultural production input lien act;
0022 providing a lien for agricultural production inputs; establish-
0023 ing a procedure to determine priorities; providing for en-
0024 forcement of such liens.

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 Section 1. This act shall be known and may be cited as the
0027 agricultural production input lien act.

0028 Sec. 2. As used in this act unless the context clearly requires
0029 otherwise:

0030 (a) "Agricultural chemical" means fertilizers, lime or agri-
0031 cultural chemicals that are applied to crops or to land that is used
0032 for raising crops, including fertilizer material, plant amendment,
0033 plant food, soil amendment, pesticide and plant regulator.

0034 (b) "Agricultural production input" means crop production
0035 inputs and livestock production inputs.

0036 (c) "Crop production input" means agricultural chemicals,
0037 seeds, petroleum products, custom application of agricultural
0038 chemicals and seeds and labor furnished in planting, cultivating,
0039 growing, producing, harvesting, drying and storing crops or crop
0040 products.

0041 (d) "Feed" means commercial feeds, feed ingredients, min-
0042 eral feeds, drugs, animal health products, supplements, cus-
0043 tomer-formula feeds or other products, including grain, that are
0044 used for feeding livestock.

0045 (e) "Lender" means a person in the business of lending
0046 money identified in a the lien notification statement.

0047 (f) "Letter of commitment" means a binding, irrevocable and

Attachment A

Atch. A
4/2/85

0049 unconditional agreement by a lender to honor drafts or other
0050 demands for payment upon the supplier presenting invoices
0051 signed by the purchaser or other proof of delivery.

a lien for the unpaid retail cost of (KBA)

0051 (g) "Lien" means agricultural production input, ~~lien~~.

0052 (g) (h) "Livestock production input" means feed and labor
0053 furnished in raising livestock, but shall not include feed or labor
0054 for which the statutory lien created by K.S.A. 58-207 and 58-220
0055 and amendments thereto relating to confinement feeding of
0056 livestock may apply, which shall remain subject to that statute.

0057 (h) (i) "Person" means an individual or an organization as
0058 defined in paragraph (30) of K.S.A. 84-1-201 and amendments
0059 thereto.

0060 (i) (j) "Petroleum product" means motor fuels and special
0061 fuels that are used in the production and drying of crops and
0062 production of livestock, including motor-vehicle fuels, special
0063 fuels and liquefied petroleum gas, as defined in subsection (e) of
0064 K.S.A. 79-3401, subsection (a) of K.S.A. 79-3474 and subsection
0065 (b) of K.S.A. 79-3490, respectively, and amendments to these
0066 statutes and other petroleum products such as alcohol fuels,
0067 propane, lubes and oils.

0068 (j) (k) "Proceeds" means proceeds as defined in K.S.A. 84-9-
0069 306 and amendments thereto except that if rights or duties are
0070 contingent upon express language in a financing statement, the
0071 requisite language may exist in a lien-notification statement
0072 under section 3, and includes farm products, inventory, ware-
0073 house receipts and documents of title as defined in the uniform
0074 commercial code.

0075 (k) (l) "Seed" means agricultural seeds that are used to pro-
0076 duce crops.

0077 (l) (m) "Supplier" means a person who furnishes agricultural
0078 production inputs.

0079 Sec. 3. (a) A supplier may notify a lender of an agricultural
0080 production input a lien by providing a lien-notification statement
0081 to the lender in an envelope marked "IMPORTANT-LEGAL
NOTICE". Delivery of the notice shall be made by certified mail
0083 or another verifiable method.

delivering (KBA)

addressed to the lender. (KBA)

statement (KBA)

evidencing date of receipt. (KBA)

0084 (b) The lien-notification statement must be in a form ap-

0085 proved by the secretary of state and disclose the following:

0086 (1) The name and business address of any lender;

0087 (2) the name and address of the supplier claiming the lien;

0088 (3) a description and the date or anticipated date or dates of

0089 the transaction and the retail cost, management costs or antici-

0090 pated costs of the agricultural production input;

0091 (4) the name, residential address and signature of the person

0092 to whom the agricultural production input was or is to be fur-

0093 nished;

0094 (5) the name and residential address of the owner, and a

0095 description of the real estate where the crops to which the lien

0096 attaches are growing or are to be grown or for a lien attaching to

0097 livestock, a description of the livestock and the location where

0098 the livestock will be or are being raised or fed; and

0099 (6) a statement whether the products and proceeds of the

0100 crops or livestock are covered by the agricultural input lien.

0101 (c) Within five business days after receiving a lien-notifica-

0102 tion statement, the lender must respond to the supplier with

0103 either:

0104 (1) A letter of commitment for part or all of the amount in the

0105 lien-notification statement; or

0106 (2) a written refusal to issue a letter of commitment.

0107 (d) (1) If a lender responds with a letter of commitment for

0108 part or all of the amount in the lien-notification statement, the

0109 supplier may not obtain a lien for the amount stated in the letter

0110 of credit, but such lien shall not have priority over a previously

0111 filed security interest of the lender.

0112 (2) If a lender responds with a refusal to provide a letter of

0113 credit commitment, the rights of the lender and the supplier are

0114 not affected.

0115 (e) If a lender does not respond to the supplier within five

0116 business days after receiving the lien-notification statement, an

0117 agricultural production input a lien for the input stated in the

0118 lien-notification statement shall have priority over any security

0119 interest of the lender in the same crops or livestock and proceeds

20 thereof, for the lesser of:

0121 (1) The amount stated in the lien-notification statement,

to be signed by the purchaser, (KBA)

state (KBA) include (SDS)

the (KBA)

furnishing agricultural production input, a description of the input, (KBA)

retail (KBA)

and (KBA)

for crop production input, (KBA)

of the crops (KBA)

and (KBA)

livestock production input (KBA)

furnish (KBA)

to advance (KBA)

retail cost stated (KBA)

furnish such (KBA)

that (SDS)

(7) The date which notice was mailed to the lender.
(8) A signed statement by the supplier indicating that the lender did not respond to the lien verification statement, (SDS)

(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 perfected security interest of the lender.

(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:

0123 ~~(2) the unpaid retail cost of the agricultural production input identified in the lien notification statement, or~~

0124 ~~(3) for livestock any limitation in subsection (b) of section 4.~~

0125 (f) Subject to the limitation of subsection (d)(1), a perfected agricultural production input lien subsections (d)(1) and (d)(2), *

0127 ~~lien perfected~~ under this act has 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.

0130 Sec. 4. (a) A supplier who furnishes crop production inputs has an agricultural input a lien for the unpaid retail cost of the crop production inputs. ~~The lien shall have priority over a security interest of the lender only in accordance with the provisions of subsection (c) of section 3.~~ The lien attaches to:

0135 (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;

0139 (2) the crops produced from furnished seed; or

0140 (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 attach to the lessor's share of the crops. The lien continues in crop products and proceeds, except that the lien does not continue in grain after a cash sale.

0146 (b) A supplier who furnishes livestock production inputs has an agricultural production input a lien for the unpaid retail cost of the livestock production input. ~~The lien shall have priority over a security interest of the lender only in accordance with the provisions of subsection (c) of section 3.~~ The lien attaches to all livestock consuming the feed and continues in livestock products and proceeds, A perfected agricultural production input 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.

0152 ~~products and proceeds,~~ A perfected agricultural production input 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.

0157 (c) An agricultural input A lien attaches when the agricultural production inputs are furnished by the supplier to the purchaser.

(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." (SAS)

subsection(d)(KBA)

liens established (KBA)

have (KBA)

Subject to the limitations of subsection (d) of section 3, (KBA)

if perfected and if the supplier notifies the lender of his lien pursuant to section 3 (KBA)

attach (KBA)

Subject to the limitations of subsection (d) of section 3 (KBA)

if perfected and if the supplier notifies the lender of his lien pursuant to section 3 (KBA)

except that the lien does not continue after a cash sale. (KFCA)

KFCA

0160 Sec. 5. (a) To perfect an agricultural production input a lien,
 0161 the lien must attach and the supplier entitled to the lien must file
 0162 a lien-notification statement with the appropriate filing office
 0163 under K.S.A. 84-9-401 and amendments thereto within six
 0164 months 20 days after the last date that the agricultural production
 0165 input was furnished. The filing office shall charge the same filing
 0166 fees for filing a lien under this act as would be charged for filing a
 financing statement under the uniform commercial code.

be perfected (KBA)

have attached (KBA)

have filed (KBA)

In the form provided by section 3 (KBA)

Strike this sentence. (SDS)

notification statement (KBA)

Subject to the provisions of section 3(d), (KBA)

0167 (b) An agricultural production input lien that is not per-
 0168 fected shall be entitled to the same priority as an unperfected
 0169 security interest as determined by K.S.A. 84-9-312 and amend-
 0170 ments thereto.

0171 (c) The filing officer shall enter on the lien-notification
 0172 statement the time and date of filing and shall file and note the
 0173 filing of a lien-notification statement under this section in the
 0174 same manner provided by K.S.A. 84-9-402 and amendments
 0175 thereto for financing statements under the uniform commercial
 0176 code.

statements. (KBA)

Strike this paragraph and replace with:
 "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. (SDS)

0177 Sec. 6. The holder of an agricultural production input a lien
 0178 may enforce the lien in the manner provided in K.S.A. 84-9-501
 0179 to 84-9-504, inclusive, and amendments thereto. In enforcing the
 0180 lien under such statutes, the lienholder shall be considered the
 0181 secured party, and the person for whom the agricultural produc-
 0182 tion input was furnished shall be considered the debtor, and
 0183 each shall have the respective rights and duties of a secured
 0184 party and a debtor under such statutes. If a right or duty under
 0185 the statutes is contingent upon the existence or waiver of such
 0186 right or duty by express language in a security agreement, the
 0187 right or duty shall be deemed not to exist.

The goods subject to a lien shall be considered the collateral, (KBA)

these (KBA)

0188 Sec. 7. After an agricultural input a lien has been perfected,
 0189 an action may be brought to enforce such lien in the district court
 0190 of the county in which some part of the crop or livestock is
 0191 located. A lien-notification statement may be amended, except
 0192 the amount demanded, by leave of the court in the furtherance of
 justice. An agricultural production input A lien is extinguished if
 an action to enforce the lien is not brought within 18 months after
 0195 the lien-notification statement is filed.

for (KBA)

retail cost of inputs (KBA)

enforced (KBA)

12 (KBA)

0196 Sec. 8. An agricultural input A lien shall not attach to crops
0197 planted before December 1, 1985.

0198 Sec. 9. This act shall take effect and be in force from and
0199 after ~~January~~ 1, 1986, and its publication in the statute book.

February (KBA)

13-22-85
2485

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.

Change back to 18 months

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 furtherance 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.

delete

~~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.

Change to September 1, 1985

Summary

Recommend 3 changes shown above and leave the language as currently written in HB 2488 regarding 5 business day response period for lender. Correspondence returned by lender should be certified mail.

HOUSE BILL No. 2469

By Committee on Agriculture and Small Business

2-20

0018 AN ACT concerning the state board of agriculture; relating to
0019 reports and publications thereof; amending K.S.A. 74-504 and
0020 repealing the existing ~~Section~~

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 ~~Section 1~~ K.S.A. 74-504 is hereby amended to read as fol-
0023 lows: 74-504. The state board of agriculture ~~may shall~~ make a
0024 biennial ~~publish an annual~~ report to the legislature, embracing a
0025 general view of the condition of agriculture throughout the state,
0026 accompanied by such essays, statements, statistics, diagrams,
0027 illustrations, and recommendations as ~~shall be deemed may be~~
0028 interesting and useful; ~~also to~~. Each legislator shall receive a
0029 copy of the annual report. *In addition the state board of agri-*
0030 *culture may* gather and prepare in the form of reports, pamphlets
0031 or press notices, such other information as ~~shall be deemed may~~
0032 *be* of value in promoting the agricultural industry of the state; or
0033 calculated to encourage immigration; ~~such~~. *The material may be*
0034 printed and bound by the state in such editions as ~~shall~~, in the
0035 judgment of the secretary of the state board of agriculture, *may*
0036 be ~~deemed~~ necessary, if sufficient funds are available to the state
0037 board of agriculture for that purpose; ~~Provided, That~~. There shall
0038 be close cooperation between the state board of agriculture and
0039 ~~the~~ Kansas state university, and ~~that~~ the staff of the Kansas state
0040 university and experiment stations shall, on approval of the
0041 president of the Kansas state university, *shall* render such ser-
0042 vices as they may be called upon to render in promoting the work
0043 of the state board of agriculture.

0044 Sec. ~~2~~ K.S.A. 74-504 ~~is~~ hereby repealed.

0045 Sec. ~~3~~ This act shall take effect and be in force from and
0046 after its publication in the statute book.

providing for the collecting, reporting and publication of population and agricultural data; prescribing certain powers, duties and functions relating thereto;

and 74-504d

New Section 1. (attached)

New Sec. 2. (attached)

Sec. 3.

Sec. 4. (attached)

5.

6.

and 74-504d are

Atch. C
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Attachment C

New Section 1. (a) Except as provided in subsection (c), the county clerk of each county shall make an enumeration as of each January 1 in accordance with procedures prescribed therefor by the state board of agriculture and may establish and maintain a continuous register of persons residing in the county. The county clerk shall record the census in alphabetical order in suitable schedules, according to township, city, ward and precinct. In each case of a township, city, ward or precinct which is divided by existing congressional, senatorial or representative district boundaries, the county clerk shall ascertain the number of persons residing in each part of the township, city, ward or precinct so divided and shall report the same to the state board of agriculture in a manner so that the population of each such district may be determined.

(b) Each county clerk shall make an abstract of the enumeration and population statistical data compiled by townships, cities, wards and precincts and shall forward the original copy of such abstract, certified as to its accuracy, together with the original forms and schedules, to the state board of agriculture on or before each May 15. A copy of the abstract shall be retained in the county clerk's office.

(c) For the purpose of enumerating the persons residing in the county as required by this section and in lieu of the enumeration being performed by the county clerk, the board of county commissioners of any county having a population of more than 300,000 is hereby authorized to enter into contracts with any qualified person, firm or corporation for the collection and compilation of such information as may be necessary to maintain a continuous register of the inhabitants of such county for the purpose of the annual census and to pay the cost thereof out of the county general fund.

(d) The county clerk of each county shall carefully examine the returns prepared of the enumeration of inhabitants and the reports of agricultural data for any errors and omissions and, when errors or omissions have occurred, in the judgment of the county clerk, the county clerk shall correct them in a manner consistent with the facts and in accordance with law.

New Sec. 2. (a) The state board of agriculture shall

prescribe procedures and provide forms and schedules to the county clerks so that the enumeration of persons residing in every county may be accomplished as required by section 1. The state board of agriculture shall prepare and distribute at the same time printed instructions defining and explaining the duties of the county clerks under section 1.

(b) When returns of the abstracts of the enumeration of inhabitants and the reports of agricultural data have been made to the state board of agriculture as provided in section 1, the board shall cause such information to be classified and arranged in the best and most convenient manner for use and shall publish such information in the annual report of the board and otherwise if deemed advisable by the board.

Sec. 4. K.S.A. 74-504d is hereby amended to read as follows: 74-504d. (a) Each year the county appraiser of each county shall ascertain and report, on forms prescribed by the state board of agriculture, such data relating to agriculture in the county as may be required by the state board of agriculture.

(b) The state board of agriculture shall furnish to each county appraiser such forms as necessary to administer this act. Each county appraiser shall complete and file such forms, certified as to their accuracy, with the state board of agriculture not later than May 15 of each year.

(c) The state board of agriculture shall compile the data reported pursuant to this section in the best and most convenient manner for use and shall publish the same in the ~~biennial~~ annual reports of the board.

(d) The state board of agriculture shall adopt such rules and regulations as necessary for the administration of this section.

(e) The board of county commissioners shall furnish the county appraiser such employees as necessary to administer this act. Such employees shall be compensated by the county in an amount prescribed by the board of county commissioners.