

Approved February 13, 1986  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Lloyd D. Polson at  
Chairperson

9:00 a.m. ~~p.m.~~ on February 5, 1986 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Research Department  
Norman Furse, Revisor of Statutes Office  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Representative Neufeld  
John K. Blythe, Assistant Director, Public Affairs Division, Kansas  
Farm Bureau  
Ivan Wyatt, Kansas Farmers Union  
Ron Wilson, Executive Director, Wichita District Farm Credit Council  
Jim Maag, Kansas Bankers Association

Representative Dean read a resolution to the Committee commending the Sunshine Biscuit Company for using Kansas wheat and printing Kansas style wheat on their American Heritage cracker box. The resolution was signed by members of the Committee.

Hearing on H.B. 2691 - Grants debtor farmer first right to buy back his land sold through foreclosure, except at public auction.

Raney Gilliland reviewed the bill for the Committee. Section 1 defines agricultural land and farming. Section 2 describes how a creditor may sell land that has been acquired--(a) by process of law in the collection of debts; (b) pursuant to a contract for deed; (c) by any procedure for the enforcement of a lien or claim thereon; except at a public auction. The debtor has 30 days after the notification of the proposed sale to purchase the land under specified conditions.

Representative Neufeld stated the bill was introduced to give the farmers who are in trouble because of the agriculture economy an equal opportunity.

John K. Blythe testified in support of H.B. 2691. The Kansas Farm Bureau believes the debtor or prior owner of farm land from whom it was acquired should be allowed to purchase such land upon the same terms and with the same concessions for an amount and at an interest rate equal to the highest bid or bona fide offer made for the land at any proposed sale, Attachment I.

Ivan Wyatt, Kansas Farmers Union spoke in favor of H.B. 2691. He said farmers who had lost their farms were not being treated fairly and this bill was needed.

Ron Wilson testified in opposition to H.B. 2691. He stated the bill would reduce farmers access to credit, increase the cost of credit, force sales to be held by public auction, force lenders to pursue deficiency judgments and prevent lenders from offering equitable financing terms, Attachment II.

Jim Maag testified the Kansas Bankers Association is concerned that this bill would create more problems than it would solve and would further reduce the marketability of agricultural land. He raised several questions which are included in Attachment III.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,  
room 423-S, Statehouse, at 9:00 a.m.~~p.m.~~ on February 5, 1986

The hearing on H.B. 2691 was closed.

The Chairman adjourned the Committee meeting at 10:00 a.m.

The next Committee meeting will be at 9:00 a.m.,  
Thursday, February 6, 1986.





# PUBLIC POLICY STATEMENT

Statement to:  
HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS  
Representative Lloyd Polson, Chairman

RE: House Bill 2691  
Topeka, Kansas  
February 5, 1986

Presented by:  
John K. Blythe, Assistant Director  
Public Affairs Division  
KANSAS FARM BUREAU

Mr. Chairman and Members of the Committee:

We appear before you today as a proponent of H.B. 2691.

We believe that ~~the~~ debtor or prior owner of farm land from whom it was acquired should be allowed to purchase such land upon the same terms and with the same concessions for an amount and at an interest rate equal to the highest bid or bona fide offer made for the land at any proposed sale.

In reviewing the "Highlights of S 1884, The Farm Credit Act Amendments of 1985" that were distributed by Mr. Ron Wilson at your committee meeting on Thursday, January 30, I read that: The Capital Corporation is to **"sell acquired real property only after the farmer owner/borrower is notified and is not precluded from purchasing."**

We believe the proposed legislation in H.B. 2691 or similar legislation should apply to all lenders of agricultural credit in the sale of farm real estate by lenders.

Thank you Mr. Chairman and Members of the Committee.

2/5/86 Hs. ASB  
Attachment I

TESTIMONY OF RON WILSON

EXECUTIVE DIRECTOR

WICHITA DISTRICT FARM CREDIT COUNCIL

FOR

HOUSE AGRICULTURE AND SMALL BUSINESS COMMITTEE

TOPEKA, KANSAS

FEBRUARY 5, 1986

*2/5/86 Hs. ASB  
Attachment II*

MR. CHAIRMAN, I AM RON WILSON FROM WICHITA, KANSAS. I AM EXECUTIVE DIRECTOR OF THE WICHITA DISTRICT FARM CREDIT COUNCIL, WHICH REPRESENTS COOPERATIVE AGRICULTURAL LENDERS. WE STRONGLY SUPPORT FARM CREDIT SERVICES, AN AGRICULTURAL LENDING COOPERATIVE WHICH INCLUDES: THE FEDERAL LAND BANK OF WICHITA, WHICH PROVIDES LONG-TERM REAL ESTATE LOANS THROUGH THE FEDERAL LAND BANK ASSOCIATIONS; THE FEDERAL INTERMEDIATE CREDIT BANK OF WICHITA, WHICH PROVIDES FUNDS TO PRODUCTION CREDIT ASSOCIATIONS FOR SHORT- AND INTERMEDIATE-TERM FARM OPERATING LOANS; AND THE BANK FOR COOPERATIVES, WHICH OFFERS LOANS TO AGRICULTURAL RURAL AND UTILITY COOPERATIVES.

AS OF DECEMBER 31, 1985, FARM CREDIT SERVICES PROVIDED NEARLY SIX BILLION DOLLARS FOR FARMERS, RANCHERS AND COOPERATIVES THROUGHOUT KANSAS, OKLAHOMA, COLORADO AND NEW MEXICO.

I APPRECIATE THE OPPORTUNITY TO PROVIDE COMMENTS ON H.B. 2691 WHICH WOULD PRESCRIBE CONDITIONS ON SALES OF LAND BY CREDITORS. THE LEGISLATION WOULD REQUIRE ANY CREDITOR WHO ACQUIRES AGRICULTURAL LAND IN KANSAS TO SELL OR DISPOSE OF SUCH PROPERTY, SUBJECT TO VERY RESTRICTIVE CONDITIONS.

WE UNDERSTAND AND APPRECIATE THE CONCERN EXPRESSED BY REPRESENTATIVE NEUFELD AND THE OTHER CO-SPONSORS OF THIS LEGISLATION. HOWEVER, WE CANNOT SUPPORT H.B. 2691 IN ITS CURRENT FORM FOR THE FOLLOWING REASONS:

1. THE LEGISLATION WOULD MAKE IT MORE DIFFICULT TO MOVE ACQUIRED PROPERTIES IN AN ALREADY DEPRESSED LAND MARKET.

THIS WOULD ONLY INCREASE COSTS TO FARMER AND RANCHER BORROWERS OF THE FARM CREDIT SYSTEM OR OTHER LENDERS, BECAUSE IT WOULD INCREASE THE COST OF CARRYING ACQUIRED PROPERTIES.

RESTRICTIONS SUCH AS GIVING THE PRIOR OWNER THE OPPORTUNITY TO PURCHASE LAND ON THE SAME TERMS AND CONCESSION FOR AN AMOUNT AND AN INTEREST RATE EQUAL TO THE HIGHEST BID OR BONAFIDE OFFER WITHIN 30 DAYS COULD ONLY DRIVE AWAY OTHER POTENTIAL BUYERS OR BIDDERS AND FORCE ASSOCIATIONS TO CARRY PROPERTY LONGER.

BECAUSE THESE PROPERTIES ARE NON-PERFORMING ASSETS, OUR COSTS ARE DRIVEN UPWARD EVERY DAY WE RETAIN OWNERSHIP OF THEM. THESE ADDITIONAL COSTS MUST BE PASSED THROUGH TO OTHER FARMERS AND RANCHERS IN THE FORM OF HIGHER INTEREST RATES.

2. FURTHER, THE LEGISLATION COULD BE COUNTERPRODUCTIVE. IT WOULD CREATE AN ENVIRONMENT WHERE IT WOULD BE BENEFICIAL FOR BORROWERS TO NOT FULFILL THE TERMS OF THEIR LOAN OBLIGATIONS. THE LEGISLATION MIGHT ENCOURAGE FARMERS IN FINANCIAL DIFFICULTY TO STOP MAKING ALL ATTEMPTS TO MEET THEIR LOAN COMMITMENTS.

THE POSSIBILITY OF FINANCIALLY DISTRESSED FARMERS USING THIS LEGISLATION TO COMPROMISE INDEBTEDNESS IS COMPLETELY UNACCEPTABLE.

IT WOULD BE EXTREMELY UNFAIR TO REQUIRE THE MAJORITY OF OUR BORROWERS WHO ARE IN SOUND FINANCIAL CONDITION TO ABSORB THE ADDED COSTS OF THIS LEGISLATION THROUGH HIGHER INTEREST RATES.

3. IN ADDITION, THE LEGISLATION IS TAKING AWAY THE CREDIT DECISION FROM THE LENDER WHERE IT BELONGS. IF THE PRIOR OWNER IS TO BE ALLOWED TO REPURCHASE ON THE "SAME TERMS AND CONCESSIONS," LENDERS WILL HAVE NO CHOICE BUT TO STRICTLY LIMIT ANY CREDIT TERMS WHICH ARE OFFERED. THEREFORE, LENDERS COULD ONLY OFFER EXTREMELY HIGH INTEREST RATES IN TRYING TO MOVE ACQUIRED PROPERTIES, WHICH WOULD FURTHER REDUCE INTEREST IN THE LAND MARKET AND DEPRESS LAND VALUES.

4. FURTHER, THE LEGISLATION IS UNNECESSARY IN THE CASE OF FORECLOSURE, WHERE CURRENT STATE LAW ALREADY REQUIRES A SIX-MONTH REDEMPTION PERIOD. DURING THIS TIME, THE FORECLOSED BORROWER RETAINS POSSESSION OF THE PROPERTY, ENTIRELY CONTROLS ANY INCOME FROM IT AND HAS THE RIGHT OF MATCHING THE HIGHEST BID.

THIS SIX-MONTH REDEMPTION PERIOD ADEQUATELY PROTECTS THE RIGHTS OF FORECLOSED BORROWERS, IMPOSES A SIGNIFICANT COST UPON LENDERS AND ADDITIONAL UNNECESSARY COSTS ARE NOT NEEDED.



IT IS OUR UNDERSTANDING THAT THE GOAL OF THIS LEGISLATION IS TO PREVENT "INSIDER DEALS" OR SO-CALLED "BUDDY DEALS" BETWEEN LENDERS AND CERTAIN BUYERS. WE APPLAUD THIS GOAL. HOWEVER, IF THIS IS THE CASE, IT IS OUR BELIEF THAT THIS GOAL CAN BE ACHIEVED BY USING MORE EFFECTIVE AND LESS COSTLY METHODS THAN THIS LEGISLATION WOULD REQUIRE.

WE APPRECIATE AND UNDERSTAND REPRESENTATIVE NEUFELD'S CONCERN FOR KANSAS FARMERS AND HIS EFFORTS TO PREVENT INSIDER DEALS. HOWEVER, WHEN CONSIDERING THIS LEGISLATION, WE ASK THAT YOU TAKE INTO ACCOUNT THE FOLLOWING UNINTENDED, ADVERSE EFFECTS:

1. REDUCING FARMERS ACCESS TO CREDIT -- AS LENDERS ASSUME ADDITIONAL COSTS AND RISKS, MARGINAL LOANS WILL NOT BE MADE;
2. INCREASING THE COST OF CREDIT -- AS LENDERS BEGIN TO EXPERIENCE ADDITIONAL LOAN LOSSES AND DIFFICULTY IN TURNING ACQUIRED PROPERTIES, COST WILL HAVE TO BE PASSED ON TO OTHER BORROWERS IN THE FORM OF HIGHER INTEREST RATES;
3. FORCING SALES TO BE HELD BY PUBLIC AUCTION -- WHICH WOULD LIKELY FURTHER DEPRESS LAND VALUES;

4. FORCING LENDERS TO PURSUE DEFICIENCY JUDGMENTS -- IN AN EFFORT TO RECOUP LOSSES FROM THOSE BORROWERS WHO USE THE LEGISLATION TO COMPROMISE THEIR INDEBTEDNESS; AND

5. PREVENTING LENDERS FROM OFFERING EQUITABLE FINANCING TERMS -- LENDERS WOULD NOT BE ABLE TO OFFER CREDIT-WORTHY FARMERS AND RANCHERS CONSTRUCTIVE FINANCING TERMS IF THEY WOULD BE REQUIRED TO PROVIDE THOSE SAME TERMS TO HIGH CREDIT-RISK FARMERS AND RANCHERS.

MR. CHAIRMAN, I THANK YOU FOR THE OPPORTUNITY TO OFFER THESE COMMENTS. IT IS OUR HOPE THAT THE LEGISLATURE WILL PURSUE OTHER MORE PRODUCTIVE MEANS FOR HELPING KANSAS FARMERS SUCH AS H.B. 2635 WHICH WOULD CLARIFY THE ELIGIBILITY OF FARM CREDIT SECURITIES, THE FAMILY FARM PRESERVATION ACT AND MEANINGFUL INTEREST RATE BUY-DOWN PROPOSALS. I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS AT THIS TIME.

THANK YOU.



The KANSAS BANKERS ASSOCIATION  
A Full Service Banking Association

February 5, 1986

TO: House Committee on Agriculture

RE: HB 2691 - An Act Concerning the Sale of Certain Agricultural Land

Mr. Chairman and members of the Committee:

Thank you for the opportunity to appear before the committee on provisions of HB 2691. We are well aware of problems faced by many in agriculture today and the trauma of losing the land involved in a farming operation. We sincerely hope that every creditor, be it bank or any other lending institution, is exhausting every possible avenue to keep a farmer on his land before initiating legal action.

While we can appreciate and understand the intent of HB 2691, we are concerned that enactment of this legislation in its present form would create more problems that it would solve. We believe the end result of such legislation would be to further reduce the marketability of agricultural land at a time when we are striving to put a stop to the decline in land prices.

Among the questions which are raised by the bill are these:

How would a purchaser of the land be assured that the provisions of the act had been met?

Does the former owner have an unlimited time period in which to bring suit for possible non-compliance with the act?

Quite obviously, potential purchasers are going to be reluctant to enter into a purchaser agreement if the title to the land may be clouded for an indefinite period?

In addition, what happens if the previous owner dies prior to the time the land is ultimately sold?

Is the creditor required to offer the land "at the same terms and with the same concessions to all heirs to the estate? This could delay the sale of property for years in some instances—a situation which would probably drive off potential buyers.

Even if those problems can be resolved, we are also concerned that potential buyers are going to be very reluctant to make serious offers for the land when they know there is a possibility of a pre-emption of their offer. Such a situation can only further depress farm land prices at a time when we can ill afford any further price deterioration.

We appreciate the committee's willingness to consider our view on HB 2691.

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2/5/86 Hs. ASB

Attachment III