

Approved April 8, 1986  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

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

9:00 a.m./~~pm~~ on March 28, 1986 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Ron Wilson, Farm Credit Council  
Senator Wint Winter, Jr.

Raney Gilliland distributed the subcommittee report on S.B. 403, Attachment I, and explained the changes in the bill that were recommended by the subcommittee. The changes were outlined in a balloon that was distributed, Attachment II. The subcommittee requested the Chairman of the Agriculture and Small Business Committee ask the Legislative Coordinating Council to grant an interim study of the partition fence laws.

Representative Clifford Campbell made a motion that the Committee adopt the subcommittee report, with corrections removing the words "newly constructed" in Sections 4 (b) and 5 (b) and in new Section 8 correcting KSA 24-408 to read KSA 29-408. Representative Apt seconded the motion.

Representative Hamm made a substitute motion to amend S.B. 403 on page 4, line 125 to add after the word "that" "if the class of fence maintained by the owner is lawful fence under Section 5, such railroad or interurban company shall enclose its line next thereto with a lawful fence corresponding in class of fence to that specified under K.S.A. 29-105 and amendments there. The". Representative Dean seconded the motion. The substitute motion failed.

The amendment proposed by Representative Hamm is Attachment III.

A vote was taken on the original motion to adopt the Committee report. The motion passed.

Representative Sallee moved to add on line 101 that the fence be restricted to not over 48 inches from the ground and on line 107 add, "provided that no electrically charged wire fence shall be erected or maintained that is in contact with public utility poles or lines in any manner where there is danger or the possibility of unreasonable interference with or damage to public utilities." Representative Clifford Campbell seconded the motion.

Representative Solbach made a friendly amendment to require the farmer to get prior permission from the utility company to use their poles for electric fences.

The motion, as amended, passed.

Representative Bryant moved to pass S.B. 403 favorably, as amended. Representative Sallee seconded, and the motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,  
room 423-S Statehouse, at 9:00 a.m. ~~PM~~ on March 28, 1986.

Continuation of hearing on S.B. 696-Authorizing the stay of certain fore-  
closure judgments relating to agricul-  
tural properties. (Family Farm  
Rehabilitation Act)

Ron Wilson explained their forbearance policy for PCA's and FLBA's, Attachment IV. He stated on an average a loan has been in default 342½ days from the time the payment was due to the time the loan is called. At that point it goes into foreclosure. After the loan is called there is another 344 days. After foreclosure, if a redemption period is entered, there is another 180 to 360 days. During all of this time the farmer is still living on the farm and talks have been going on to resolve the matter. Mr. Wilson handed out a list of proposed amendments to S.B. 696, Attachment V.

Senator Winter distributed amendments to S.B. 696 to the Committee. These amendments were arrived at from suggestions from Representative Sprague and himself and from the Kansas Bankers Association, Federal Land Bank and Agriculture Committee members, Attachment VI.

Representative Roenbaugh moved to approve the minutes of March 17, 18, 19, 20, and 21. Representative Jenkins seconded the motion. The motion passed.

The Committee meeting was adjourned at 10:00 a.m.



CLIFFORD V. CAMPBELL  
REPRESENTATIVE, 106TH DISTRICT  
LINCOLN, MITCHELL, AND PARTS OF  
CLOUD, OTTAWA, ELLSWORTH AND  
RUSSELL COUNTIES  
ROUTE 3  
BELOIT, KANSAS 67420



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE CHAIRMAN: AGRICULTURE AND SMALL  
BUSINESS  
MEMBER: JOINT COMMITTEE ON SPECIAL  
CLAIMS AGAINST THE STATE  
COMMUNICATIONS, COMPUTERS  
AND TECHNOLOGY

HOUSE AGRICULTURE SUBCOMMITTEE REPORT

3/28/86

ON S.B. 403

Mr. Chairman, your subcommittee on S.B. 403 makes the following  
recommendations:

1. That the original language setting forth the standards for a barbed-wire fence be restored to present law;
  2. That the provisions for the standards for newly constructed fences in lines 93 - 97 be stricken;
  3. That a new provision be included in Section 4 of the bill that would permit the county commissioners (fence viewers) to establish standards which exceed those of the statute in their respective jurisdictions;
  4. That would permit the least restrictive standard for fence construction apply to those fences on county lines;
  5. That would make an exception to the standards set forth for fence construction for suspension fences;
  6. That would amend New Section 5 that would permit county commissioners (fence viewers) to establish standards for lawful electrically charged wire fences which exceed those established by statute;
- and

3-28-86 Hs. A.S.B  
*Attachment I*

7. That would add, with amendments, K.S.A. 29-408 to the bill to clarify that trespassing domestic animals may be retained by the person being trespassed upon until damages and costs for feeding are recovered through a court of competent jurisdiction.

The Subcommittee also wishes to note that it heard from several conferees on the issue of partition fence law. The Subcommittee notes that the Attorney General has stated that partition fences are to be divided in equal shares between adjoining landowners, unless the requirements of K.S.A. 29-309 are satisfied. The Kansas Association of Wheat Growers requested the Subcommittee to amend S.B. 403 to clarify the responsibility of landowners with regard to partition fences. They offered language which would have amended K.S.A. 29-309 to address their concern over partition fence responsibility. However, the Subcommittee concluded that the issue of partition fences was so controversial that it ought to be addressed in separate legislation. Therefore, the Subcommittee requests that the Chairman of the House Agriculture and Small Business Committee ask the Legislative Coordinating Council to grant an interim study of the partition fence laws.

Respectively submitted,



Rep. Clifford V. Campbell



Rep. Don Sallee



Rep. John Solbach

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 1986

SENATE BILL No. 403

By Special Committee on Agriculture and Livestock

Re Proposal No. 4

12-19

0021 AN ACT concerning domestic animal trespass; requiring the  
0022 enclosure of such animals by a legal fence and defining such  
0023 fence; amending K.S.A. 29-101, 29-102, 29-105 and 47-122,  
0024 47-122 and 66-308 and repealing the existing sections; also  
0025 repealing K.S.A. 29-110 to 29-123, inclusive, 47-101 to 47-103,  
0026 inclusive, 47-105 to 47-110, inclusive, 47-112 to 47-119, in-  
0027 clusive, and 47-301 to 47-313, inclusive.

29-408

0028 *Be it enacted by the Legislature of the State of Kansas:*

0029 New Section 1. It is hereby declared that the policy of this  
0030 state with respect to domestic animal trespass shall be that all  
0031 such animals shall be enclosed by a lawful fence. It is further  
0032 declared that, unless otherwise specifically provided by law,  
0033 strict or absolute liability for damages for injury to any person or  
0034 property resulting from domestic animal trespass shall not arise,  
0035 and, in all such cases, the principles of ordinary negligence shall  
0036 apply.

0037 Sec. 2. K.S.A. 29-101 is hereby amended to read as follows:  
0038 29-101. All fields and enclosures *domestic animals, other than*  
0039 *cats and dogs*, shall be enclosed with a fence sufficiently close,  
0040 composed of posts and rails, posts and palings, posts and planks  
0041 or palisades, posts and wire, rails alone, laid up in the manner  
0042 commonly called a worm fence, or turf, with ditches on each  
0043 side, of stone, or a hedge *in existence on July 1, 1986*, composed  
0044 either of thorn or Osage orange.

0045 Sec. 3. K.S.A. 29-102 is hereby amended to read as follows:  
0046 29-102. All fences composed of posts and rails, posts and palings,

3-28-86 H. ASB  
Attachment II

0047 posts and planks, or palisades, or of stone, or composed of posts  
 0048 and wires, or those composed of turf, shall be at least four feet  
 0049 high. Those composed of rails, commonly called a worm fence,  
 0050 shall be at least four feet and one-half feet high to the top of the  
 0051 rider, and shall be thoroughly staked and ridered, or if not staked  
 0052 and ridered shall have the corners locked with strong rails, stakes  
 0053 or posts. Those composed of stone shall be at least ~~eighteen~~ 18  
 0054 inches wide at the bottom and ~~twelve~~ 12 inches wide at the top.  
 0055 Those composed of turf ~~to shall~~ be thoroughly staked and ri-  
 0056 dered, and shall have a ditch on the outside not less than two feet  
 0057 wide at the top and three feet deep. *With respect to* all fences  
 0058 composed of rails or lumber, the bottom rail, board or plank shall  
 0059 not be more than two feet from the ground ~~in any township,~~ and  
 0060 ~~in those townships where hogs are not prohibited from running~~  
 0061 ~~at large it shall not be more than six inches from the ground;~~ and.  
 0062 All such fences shall be substantially built and sufficiently close  
 0063 to prevent ~~steek~~ *domestic animals, other than cats and dogs* from  
 0064 going through. All hedge fences shall be of such height and  
 0065 thickness as will be sufficient to ~~protect the field or enclosure~~  
 0066 *enclose domestic animals other than cats and dogs.*

0067 Sec. 4. K.S.A. 29-105 is hereby amended to read as follows:  
 0068 29-105. ~~That~~ *(a) Except as otherwise provided in subsection (b),*  
 0069 *and in addition to the fence now declared by law to be a legal*  
 0070 *fence, the following shall be a legal fence: A barbed-wire fence,*  
 0071 *of not less than three wires, with the third wire from the ground*  
 0072 *not less than ~~forty-four~~ 44 inches nor more than ~~forty-eight~~ 48*  
 0073 *inches from the ground, and the bottom wire not more than*  
 0074 *~~twenty-four~~ 24 inches nor less than ~~eighteen~~ 18 inches from the*  
 0075 *ground, with the center wire equidistant, or nearly so, between*  
 0076 *upper and lower wires; ~~said~~ All such wires to shall be well*  
 0077 *stretched and barbed, barbs to average not more than nine inches*  
 0078 *apart; ~~said~~ and such barbed wire to shall be composed of two*  
 0079 *wires not smaller than No. 13, or one wire not smaller than No. 9,*  
 0080 *or wires having not less than 950 pounds breaking strength. All*  
 0081 *such wires to shall be securely fastened to posts, which shall not*  
 0082 *be more than two rods apart and not less than ~~twenty~~ 20 inches in*  
 0083 *the ground, and set in a workmanlike manner; or the posts may*

44 inches nor more than

24 inches nor less than

0084 be not more than forty-eight 48 feet apart, with slats placed  
 0085 perpendicularly, not more than twelve 12 feet apart, between the  
 0086 posts and fastened to the wires by staples, or with holes in the  
 0087 slats: *Provided*, That in townships or counties where hogs are  
 0088 allowed to run at large, there shall be three additional barbed  
 0089 wires, the lower one of which shall not be more than four inches  
 0090 from the ground, the other two to be placed an equal distance  
 0091 apart, or nearly so, between this and the lower wire as required  
 0092 above.

Suspension fences shall not be subject to the requirements of this section.

0093 (b) ~~On and after the effective date of this act, a newly~~  
 0094 ~~constructed barbed-wire fence to be deemed a legal fence under~~  
 0095 ~~this section, shall, in addition to all other requirements of~~  
 0096 ~~subsection (a), be constructed of four wires with a post for every~~  
 0097 ~~rod of distance with the fourth wire from the ground being not~~  
 0098 ~~less than 48 inches from the ground and the first wire from the~~  
 0099 ~~ground being not more than 18 inches from the ground.~~

The board of county commissioners of any county, by resolution, may establish for barbed-wire fence constructed after the effective date of such resolution construction requirements which are more stringent than the requirements under subsection (a). In those cases where a newly constructed barbed-wire fence is located on a county line, the least restrictive requirements for construction of such fence shall apply

0100 New Sec. 5. In addition to fences otherwise declared by law  
 0101 to be a legal fence, an electrically charged wire fence with at  
 0102 least one 14 gauge wire or its equivalent and which is deemed by  
 0103 the fence viewers in whose jurisdiction such fence is located, to  
 0104 be equivalent to other legal fences, is hereby deemed a legal  
 0105 fence. The board of county commissioners of any county~~may~~, by  
 0106 enacting a resolution so providing,~~elect to declare that such~~  
 0107 electrically charged wire fence shall not be a legal fence within  
 0108 the jurisdiction of such board. No utility which furnishes elec-  
 0109 tricity shall have or incur any liability to any person in the event  
 0110 of electric power failure to or for any electric fence.

(a)

may

0111 Sec. 6. K.S.A. 47-122 is hereby amended to read as follows:  
 0112 47-122. ~~That~~ It shall be unlawful for any neat cattle, horses,  
 0443 mules, asses, swine or sheep, domestic animal, other than dogs  
 0114 and cats, to run at large.

0115 Sec. 7. K.S.A. 66-308 is hereby amended to read as follows:  
 0116 66-308. (a) Any person, persons or corporations owning land by  
 0117 or through which any railroad or any electric interurban line  
 0118 has been or may be constructed, who has enclosed or may  
 0119 enclose the same or any part thereof, and adjacent to the line of  
 0 such railroad or interurban line, with either a lawful fence or a

(b) The board of county commissioners of any county, by resolution, may establish for an electrically charged wire fence constructed after the effective date of such resolution construction requirements which are more stringent than the requirements under subsection (a). In those cases where a newly constructed electrically charged wire fence is located on a county line, the least restrictive requirements for construction of such fence shall apply.



0121 hog-tight fence, may demand of such railroad or interurban  
 0122 company that it enclose its line next thereto with a lawful fence  
 0123 or hog-tight fence corresponding in class of fence to that main-  
 0124 tained by the owner, and maintain the same. ~~Provided, except~~  
 0125 that the following shall constitute a hog-tight fence for the  
 0126 purpose of this act: A woven-wire fence not less than twenty-six  
 0127 26 inches high with not less than seven cables and meshes not to  
 0128 exceed six inches in length. The bottom mesh shall not be more  
 0129 than three inches wide; the second not more than three and one  
 0130 half inches wide, the third not more than four inches wide, the  
 0131 fourth not more than four and one half inches wide, the fifth not  
 0132 more than five inches wide, and the sixth not more than six  
 0133 inches wide. The bottom wire of the said woven-wire fence shall  
 0134 be placed not to exceed two inches from the surface of the  
 0135 ground. And in addition to the woven wire already prescribed  
 0136 there shall be not less than three barbed wires placed above said  
 0137 the woven wire. The first barbed wire above the woven wire  
 0138 shall be placed four inches above the top of the woven-wire  
 0139 fence. The second barbed wire shall be placed eight inches above  
 0140 the first barbed wire, and the third barbed wire to be placed  
 0141 eight inches above the second barbed wire; in all, ~~forty-eight~~ 48  
 0142 inches. The posts shall be of ordinary size for fence purposes and  
 0143 set in the ground at least two feet deep and not to exceed sixteen  
 0144 16 feet apart. The barbs on the barbed wire shall not exceed six  
 0145 inches apart, said such wire to be of not less than No. 13  
 0146 standard gauge [or wires having not less than 950 pounds  
 0147 breaking strength].

0148 (b) For purposes of this section, an electrically charged wire  
 0149 fence described in section 5 of this act shall not be deemed a  
 0150 lawful fence.

0151 Sec. 7 ~~[8]~~ K.S.A. 29-101, 29-102, 29-105, ~~29-410 to 29-423,~~  
 0152 inclusive, 47-101 to 47-103, inclusive, 47-105 to 47-110, inclu-  
 0153 sive, 47-112 to 47-119, 47-122 ~~and~~, 47-301 to 47-313, inclusive,  
 0154 and 66-308 are hereby repealed.

0155 Sec. 8 ~~[9]~~ This act shall take effect and be in force from and  
 0156 after its publication in the statute book.

Sec. 8. K.S.A. 29-408 is hereby amended to read as follows:  
 If any of the animals mentioned in this act shall break  
~~into an enclosure surrounded by a fence of the height and~~  
~~sufficiency prescribed by this act, the owner of the~~  
 enclosure free of their lawful enclosure, and trespass on  
 land owned by another person, the owner or occupant of  
 the land may take into possession such animal trespassing,  
 and keep the same until damages, with reasonable charges  
 for feeding and keeping, and all costs of suit, be paid,  
 to be recovered in any court of competent jurisdiction.

~~[9]~~ <sup>9</sup>  
 24-408,

[10]

0121 hog-tight fence, may demand of such railroad or interurban  
 0122 company that it enclose its line next thereto with a lawful fence  
 0123 or hog-tight fence corresponding in class of fence to that main-  
 0124 tained by the owner, and maintain the same. Provided, except  
 0125 that [the] following shall constitute a hog-tight fence for the  
 0126 purpose of this act: A woven-wire fence not less than ~~twenty-six~~  
 0127 26 inches high with not less than seven cables and meshes not to  
 0128 exceed six inches in length. The bottom mesh shall not be more  
 0129 than three inches wide; the second not more than three and one  
 0130 half inches wide, the third not more than four inches wide, the  
 0131 fourth not more than four and one half inches wide, the fifth not  
 0132 more than five inches wide, and the sixth not more than six  
 0133 inches wide. The bottom wire of the said woven-wire fence shall  
 0134 be placed not to exceed two inches from the surface of the  
 0135 ground. And in addition to the woven wire already prescribed  
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 0141 eight inches above the second barbed wire; in all, ~~forty-eight~~ 48  
 0142 inches. The posts shall be of ordinary size for fence purposes and  
 0143 set in the ground at least two feet deep and not to exceed ~~sixteen~~  
 0144 16 feet apart. The barbs on the barbed wire shall not exceed six  
 0145 inches apart, said such wire to be of not less than No. 13  
 0146 standard gauge [or wires having not less than 950 pounds  
 0147 breaking strength].

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if the class of fence maintained by the owner is  
 lawful fence under section 5, such railroad or  
 interurban company shall enclose its line next  
 thereto with a lawful fence corresponding in class  
 of fence to that specified under K.S.A. 29-105 and  
 amendments thereto. The

3-28-86 Hs. ASB  
 Attachment III

FORBEARANCE POLICY FOR PCAs AND FLBAs

The Forbearance Policy is as follows:

- \* Forbearance means to reach an agreement with a borrower as determined on a case-by-case basis, to renew, reschedule, defer payment, reamortize, refrain from initiating legal action against a borrower whose loan is in default or any other option not enumerated that allows the borrower to make payments on the loan.
- \* In considering borrower forbearance, the following conditions should be considered:
  - Is the borrower cooperative?
  - Is the borrower making an honest effort to meet the conditions of the loan contract?
  - Is the borrower capable of working out the debt burden as determined by an appropriate credit analysis of the borrower's present and projected financial condition?
- \* Before authorizing any foreclosure action against a borrower, the association shall consider, on a case-by-case basis, the above conditions for borrower forbearance.
- \* In the event the borrower refuses to negotiate in good faith a plan for forbearance, the borrower breaches an agreement negotiated pursuant to this policy, or the borrower is not capable of working out of the debt burden, the association shall take whatever legal action it deems appropriate to protect the interest of the institution including, but not limited to, foreclosure.

3-28-86 Hs. ASB  
Attachment IV

AMENDMENTS TO S.B. 696

1. Provide that borrower can only use this procedure once within a seven year period.
2. Deny the procedure for those who practice fraud or abuse (in addition to the criminal penalties for diversion of proceeds).
3. Allow the borrower to qualify by making payments six months at a time, rather than being required to make the entire year's payment up front.
4. Allow the procedure to be waived by the borrower.
5. Exempt livestock and growing crops.
6. Prevent the procedure from being used if borrower is in Chapter 11 bankruptcy or has had Chapter 11 dismissed within the last 12 months.
7. Allow the lender to seek judgment from a non-farm co-signer or guarantor.
8. Provide that the rate charged the borrower under the procedure be the rate actually due from the borrower under the terms of the contract.

Enactment of S.B. 696 would accomplish the objectives of the two House passed bills.

3-28-86 Hs. ASB  
Attachment V

SENATE BILL No. 696

By Committee on Agriculture

2-25

3-28-86 Hs. ASB  
Attachment II

021 AN ACT concerning agriculture; relating to land and property  
022 used in a farming operation; authorizing the stay of enforce-  
023 ment of certain judgments relating to such property; estab-  
024 lishing procedures relating thereto; providing for redemption  
025 of certain property.

026 *Be it enacted by the Legislature of the State of Kansas:*  
027 *Section 1. This act shall be known and may be cited as the*  
028 *family farm rehabilitation act. [The purpose of this act is to*  
029 *provide a procedure to effectuate a broad program of rehabili-*  
030 *tation of distressed farmers faced with forced sales of their*  
031 *farming operations and oppressive debt burdens and to this end*  
032 *the provisions of this act should be liberally construed to provide*  
033 *distressed farmers with the relief authorized under this act.]*

034 ~~Section 1~~ *Sec. 2.* As used in this act:  
035 (a) "Agricultural land" means land used in a farming opera-  
036 tion.

037 (b) "Farming operation" includes farming, tillage of the soil,  
038 dairy farming, ranching, production or raising of crops, poultry or  
039 livestock, and production of poultry or livestock products in an  
040 unmanufactured state.

041 (c) "Farmer" means a person who received more than 80% of  
042 such person's gross income during the taxable year of such  
043 person, immediately preceding the taxable year of such person  
044 during which the case under this act concerning such person was  
045 commenced, from a farming operation owned or operated by  
046 such person.

047 (d) "Agricultural property" means personal property used as  
048 part of a farming operation including, but not limited to, farm

The legislature finds and declares as follows: (a) That the economy of this state is based to a large extent on agriculture and that the livelihood of individual farmers, ranchers and agribusinessmen in this state is placed in jeopardy as a result of low commodity prices, high interest rates, the declining value of land used for agricultural purposes and the increasing rate of farm foreclosures; (b) that agricultural economic conditions in this state have caused a severe economic emergency for this state; and (c) that farm foreclosures in this state are contributing to a decline in the value of real property and increasing the economic hardships of citizens in this state. For these reasons, the legislature finds and declares that the purpose of this act is to assist in stabilizing the economic conditions of this state and that this act is to be liberally construed so as to effectuate that purpose.

, not including the gross income of a spouse from sources other than the farming operation

machinery and equipment.

(c) "Insolvent" means a person has no equity in property other than exempt property under other provisions of Kansas law with exception of cash or cash equivalent essential for family consumption and farming operations for a period of no more than six months.

Sec. 23. All proceedings for the foreclosure of a mortgage on agricultural land, the cancellation of a contract for the purchase of agricultural land or the repossession of or collection against agricultural property commencing on and after the effective date of this act shall be subject to the provisions of this act.

executed prior to the effective date of this act

purchased prior to the effective date of this act

Sec. 34. The defendant-owner [or purchaser] of agricultural land in case of an action for mortgage foreclosure or cancellation of a contract for purchase or the defendant-owner [or purchaser] of agricultural property in case of an action for repossession or collection against such property may make application by motion to the district court which has jurisdiction of the matter at least 20 days prior to trial or hearing on such matter for protection under this act. The applicant shall within three days from the time of filing the motion mail or serve written notice of such motion upon the mortgagee or judgment creditor, or the attorney of record for such person, and shall attach to such notice a copy of such motion. *The applicant shall within 10 days from the time of filing the motion file with the court [and serve upon the parties] a schedule of all the assets and liabilities of the applicant, the truthfulness of which shall be verified by the applicant under oath. Any applicant who intentionally misrepresents assets or liabilities, or both, on such schedule shall be guilty of a class A misdemeanor.*

perjury under K.S.A. 21-3805 and amendments thereto

Sec. 45. At the time of the trial or hearing on the petition in an action described under section 34, the court shall hear the motion as provided in section 34 and [as part of the judgment] shall make an order determining:

(a) The current fair market value of the [agricultural land and agricultural] property as a whole, and if the property is agricultural land and is divided into parcels, the court shall determine the fair market value of each parcel in addition to the

86 value of the whole;

87     b) the value of each piece of agricultural property and the  
88 value of all the agricultural property;

89     (c) whether the defendant-owner *[or purchaser]* is an insol-  
90 vent farmer as defined in this act; and

91     (d) whether the provisions of this act are applicable to the  
92 case.

93     Sec. 5 6. (a) If the court finds that the defendant-owner *[or*  
94 *purchaser]* is an insolvent farmer as defined in this act and that  
95 the provisions of this act are applicable, the court shall order a  
96 stay of the execution of the judgment for 30 days. The running of  
97 the period of redemption shall be tolled until the court makes its  
98 order upon the application. If the defendant-owner *[or pur-*  
99 *chaser]* pays into court during this period of time in cash or by  
00 certified check an amount equal to the interest for one year on  
01 the fair market value of the property, or any parcel of property if  
02 agricultural land: (1) *In the case of agricultural land, the interest*  
03 *for one year on the fair market value of the land or any parcel of*  
04 *the land or (2) in the case of agricultural property, the interest*  
05 *and depreciation for* one year on the fair market value of the  
06 *property or (3) both such amounts if agricultural land and*  
07 *agricultural property are involved.* the court for a period of one  
08 *year after such payment* shall stay execution of the judgment on  
09 *the property, or parcel of property if agricultural land, or parcel*  
10 *thereof, or agricultural property, upon which such interest pay-*  
11 *ment was made and also stay execution of any money judgment.*  
12 As a part of the order, the court shall specify the methods of  
13 providing adequate protection of the agricultural land or agri-  
14 cultural property *[upon which execution of judgment has been*  
15 *stayed]* and that failure to provide adequate protection as or-  
16 dered by the court will result in the stay being extinguished and  
17 the judgment enforced.

18     (b) Within 10 days before the end of such one-year period,  
19 the defendant-owner *[or purchaser]* may apply for and the court  
20 may grant an additional one-year stay of execution of the judg-  
21 ment upon payment *[into court]* by the defendant-owner *[or*  
22 *purchaser]*, in cash or by certified check, of an amount equal to:

the next

or if the court has ordered under subsection (e) that periodic payments be made for such amount,

or after the entry of the order for periodic payments

except that no stay of execution of the judgment shall apply to a cosignor or guarantor of a loan, other than the defendant-owner's or purchaser's spouse, with respect to the difference between the fair market value of the collateral and the full value of the judgment

either by periodic payments under subsection (e) or by a single payment

33 (1) the interest for one year on the then current fair market value  
 34 of the property, or any parcel of the property if agricultural land,  
 35 or parcel thereof, or agricultural property, or both, and (2) the  
 36 depreciation, if any, during the preceding one-year period, as  
 37 determined by the court, on the fair market value of the agri-  
 38 cultural land, or parcel thereof, or agricultural property, or  
 39 both. Within 10 days before the end of such second one-year  
 40 period, the defendant-owner *[or purchaser]* may apply for and  
 41 the court may grant an additional one-year stay of execution of  
 42 judgment upon payment *[into court]* by the defendant-owner *[or*  
 43 *purchaser]*, in cash or by certified check, of an amount equal to:  
 44 (1) the interest for one year on the then current fair market value  
 45 of the property, or any parcel of the property if agricultural land,  
 46 or parcel thereof, or agricultural property, or both, and (2) the  
 47 depreciation, if any, during the preceding one-year period, as  
 48 determined by the court, on the fair market value of the agri-  
 49 cultural land, or parcel thereof, or agricultural property, or  
 50 both. After a third one-year stay of execution of the judgment  
 51 under this section, no further one-year stays may be granted.  
 52 *[Interest so paid into court shall be paid to the judgment credi-*  
 53 *tor and credited to the amount of the judgment.]*

54 (c) For the purpose of this section, the interest rate shall be  
 55 fixed by the court in an amount equal to the average yield before  
 56 taxes received on 52-week United States treasury bills as deter-  
 57 mined by the federal reserve banks as fiscal agents of the United  
 58 States at its most recent public offering of such bills prior to the  
 59 time of such payment plus 2%.

50 (d) If upon application of the defendant-owner *[or purchaser*  
 51 *the execution of]* the judgment is stayed under this act for a  
 52 one-year or longer period of time, the defendant-owner *[or*  
 53 *purchaser]* shall be deemed to have waived any right to redeem  
 54 the *[agricultural land or agricultural]* property otherwise pro-  
 55 vided by law but shall have a right to redeem the property as  
 56 provided under this act. If application is made under this act to  
 57 stay execution of the judgment and the application is denied or if  
 58 the defendant-owner *[or purchaser]* is unable to make the inter-  
 59 est payment required under subsection (b), the judgment shall

in the case of agricultural land,

(2) in the case of agricultural property, the interest and depreciation for the next one year on the fair market value of the agricultural property or (3) both such amounts if agricultural land and agricultural property are involved

either by periodic payments under subsection (e) or by a single payment

in the case of agricultural land,

(2) in the case of agricultural property, the interest and depreciation for the next one year on the fair market value of the agricultural property or (3) both such amounts if agricultural land and agricultural property are involved



0160 be executed as otherwise provided by law.

0161 Sec. 6 7. Within 10 days [At any time] before the end of any  
 0162 such one-year period during which a stay of execution of the  
 0163 judgment has been granted under section 5 6 or at any time  
 0164 during any such one-year period, the defendant-owner [or pur-  
 0165 chaser] may redeem the [agricultural land or agricultural]  
 0166 property, or any [parcel] of the property if agricultural land, upon  
 0167 which execution of judgment has been stayed by paying to the  
 0168 judgment creditor [into court] an amount equal to: (a) the fair  
 0169 market value of the property as determined by the court under  
 0170 section 4 together with 5 [at the time of judgment] or the fair  
 0171 market value of the property as determined by the court at the  
 0172 time of redemption, whichever is greater, less any amounts paid  
 0173 for depreciation on such property under section 6, but in no case  
 0174 an amount larger than the original judgment, and (b) costs, taxes  
 0175 and any other charges approved by the court to the date of  
 0176 redemption, and the court at the time of redemption may deter-  
 0177 mine the rights of the junior creditors, if any, to any such  
 0178 payment. If the defendant-owner [or purchaser] is unable to  
 0179 redeem the property, fails to apply for an additional one-year  
 0180 period of stay of execution of the judgment or fails to qualify for  
 0181 an additional one-year period of stay of execution of the judg-  
 0182 ment, the [court shall order the] stay shall be extinguished and  
 0183 the judgment shall [may] be executed as otherwise provided by  
 0184 law.

0185 Sec. 7 8. If the defendant-owner [or purchaser] who has  
 0186 been granted a stay of execution of the judgment under this act  
 0187 fails to provide adequate protection of the agricultural land or  
 0188 agricultural property as ordered by the court, the judgment  
 0189 creditor may make application to the district court for a hearing  
 0190 on the matter. Upon five days' written notice to the defendant-  
 0191 owner [or purchaser] a hearing shall be held by the court. If the  
 0192 court finds that the defendant-owner [or purchaser] has failed to  
 0193 provide adequate protection of the agricultural land or agricul-  
 0194 tural property as ordered by the court, the court shall extinguish  
 0195 the stay and order that the judgment [may] be executed as  
 0196 otherwise provided by law.

(e) In lieu of a single payment of the amount required under this subsection to stay the execution of a judgment, a court may authorize the payment to be made periodically during the one-year period. The first payment equal to 1/2 of the total amount to be paid during the one-year period shall be made six months after the order of the court directing that periodic payments be made and payments thereafter shall be made on a quarterly basis. The payments shall be made in cash or by certified check. The failure to make a periodic payment as ordered by the court shall result in the stay being extinguished and the judgment enforced.

part or portion

or if the defendant-owner or purchaser has obtained such stay through fraud or misrepresentation

or has obtained such stay through fraud or misrepresentation

0197 Sec. 89. The provisions of this act shall not apply to: (a) Any  
 01 agricultural land which is not occupied in good faith; (b) any  
 0199 agricultural land where the premises have been abandoned by  
 0200 the owner thereof; ~~[or] (c) an owner [a defendant] who [since~~  
 0201 *January 1, 1986,* has acquired title ~~since January 1, 1986,~~ to ~~[or~~  
 0202 *contracted to buy]* the agricultural land or agricultural property.

0203 Sec. 9. This act shall be known and may be cited as the  
 0204 family farm rehabilitation act.

0205 Sec. ~~10~~ *The provisions of this act shall expire on July 1,*  
 0206 *1991[, except that the stay of any judgment under this act in*  
 0207 *effect immediately prior to July 1, 1991, shall continue until the*  
 0208 *end of the one-year period of such stay and the provisions of this*  
 0209 *act shall continue to be applicable to all the parties to such stay*  
 0210 *until the end of such one-year period].*

0211 Sec. 40~~11~~. This act shall take effect and be in force from and  
 0212 after its publication in the Kansas register.

or (d) any agricultural land, or parcel thereof, or agricultural property on which a stay of execution of a judgment has previously been obtained under this act

Sec. 10. A defendant-owner or purchaser may waive the right to seek a stay of judgment under this act or the right to redemption of property under this act, or both, as part of a debt restructuring agreement with the original creditor.

Sec. 11. Nothing in this act shall be construed to forgive or discharge any indebtedness of the judgment creditor except as otherwise provided in this act, to extinguish any judgment lien on non-exempt property of the defendant-owner or purchaser or to affect any deficiency judgment against the defendant-owner or purchaser.

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