

Approved \_\_\_\_\_  
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at \_\_\_\_\_  
Chairperson

12:25 ~~xxx~~ ~~xxx~~ /p.m. on March 7, 1986 in room 423-S of the Capitol.

All members were present except: Senator Arasmith (excused)  
Senator Doyen (excused)  
Senator Gannon (excused)

Committee staff present: Arden Ensley, Revisor of Statutes Department

Conferees appearing before the committee: Senator Wint Winter, Jr.  
Jim Maag, Kansas Bankers Association  
Ron Wilson, Federal Land Bank

The Chairman called the Committee to order and ask for a motion to refer SB 591 to Ways and Means Committee so that the bill can be referred back to the Senate Agriculture Committee later this session.

Senator Thiessen made a motion SB 591 be referred to Senate Ways and Means Committee. Senator Karr seconded the motion. Motion carried.

The Chairman turned the Committees' attention to SB 696 for further discussion and action; he then called on Senator Winter to report on compromises reached with the banking industry.

Senator Winter explained he and Representative Sprague had met with the bankers since the hearing for SB 696 on March 5 and a new set of amendments had been written for the bill. He gave copies of the amendments to the Committee members (attachment 1). He explained the bill and amendments were written with the desire to do something to help farmers in our state and that it be constitutional also. Senator Winter stated this bill was written to help only farmers that are at a point of bankruptcy. He explained also that the bill had a sunset provision for five years and at that time the Legislature could extend the effective time of the bill.

Committee comment included that section 9 should be changed and placed at the beginning of the bill as section 1.

The Chairman ask Jim Maag for comments on the bill with amendments.

Mr. Maag stated he had met with Senator Winter and Representative Sprague to help with the attached amendments. He said with these amendments the bill is more acceptable. He said all banks in the state are not going to like this legislation.

During Committee discussion Mr. Maag said he did not know how many people this legislation would help. He said a farmer that had started bankruptcy proceedings could have the bankruptcy stopped and refiled thus making himself eligible for the benefits of SB 696.

The Chairman ask Ron Wilson if he would like to comment on how the Federal Land Bank viewed this bill.

Mr. Wilson stated the Federal Land Bank had not been involved with any the formation of SB 696; they had not testified on the bill but that Federal Land Bank is interested in any help that can be provided to the farmers in our state.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture  
room 423-S, Statehouse, at 12:25 ~~xxx~~ p.m. on March 7, 1986

Senator Winter concluded by stating that this legislation had been worked on as a way to try and help farmers because of the strong feeling we all have for agriculture in our state. He said that something was worked on that would be workable and something that would encourage the banks and the land banks to work together and he encouraged support of all the Committee for this bill.

Senator F. Kerr made a motion the Committee accept the amendments offered for SB 696 and that the section 9 be moved so that it would be section 1 of SB 696. Senator Norvell seconded the motion. Motion carried.

Senator F. Kerr made a motion the Committee recommend SB 696 favorable for passage as amended. Senator Norvell seconded the motion. Motion carried.

The Chairman announced that Senator Winter would carry the bill when it reached the Senate Floor for action and then he declared the committee adjourned at 1:05 p.m.



# SENATE BILL No. 696

By Committee on Agriculture

2-25

0017 AN ACT concerning agriculture; relating to land and property  
0018 used in a farming operation; authorizing the stay of enforce-  
0019 ment of certain judgments relating to such property; estab-  
0020 lishing procedures relating thereto; providing for redemption  
0021 of certain property.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. As used in this act:

0024 (a) "Agricultural land" means land used in a farming opera-  
0025 tion.

0026 (b) "Farming operation" includes farming, tillage of the soil,  
0027 dairy farming, ranching, production or raising of crops, poultry or  
0028 livestock, and production of poultry or livestock products in an  
0029 unmanufactured state.

0030 (c) "Farmer" means a person who received more than 80% of  
0031 such person's gross income during the taxable year of such  
0032 person, immediately preceding the taxable year of such person  
0033 during which the case under this act concerning such person was  
0034 commenced, from a farming operation owned or operated by  
0035 such person.

0036 (d) "Agricultural property" means personal property used as  
0037 part of a farming operation including, but not limited to, farm  
0038 machinery and equipment.

0039 (e) "Insolvent" means a person has no equity in property  
0040 other than exempt property under other provisions of Kansas law  
0041 with exception of cash or cash equivalent essential for family  
0042 consumption and farming operations for a period of no more than  
0043 six months.

0044 Sec. 2. All proceedings for the foreclosure of a mortgage on  
0045 agricultural land, the cancellation of a contract for the purchase

7015  
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3/7/86 Sen. Ag.  
attachment

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.

0019 Sec. 3. The defendant-owner of agricultural land in case of  
0050 an action for mortgage foreclosure or cancellation of a contract for  
0051 purchase or the defendant-owner of agricultural property in case  
0052 of an action for repossession or collection against such property  
0053 may make application by motion to the district court which has  
0054 jurisdiction of the matter at least 20 days prior to trial or hearing  
0055 on such matter for protection under this act. The applicant shall  
0056 within three days from the time of filing the motion mail or serve  
0057 written notice of such motion upon the mortgagee or judgment  
0058 creditor, or the attorney of record for such person, and shall  
0059 attach to such notice a copy of such motion.

0060 Sec. 4. At the time of the trial or hearing on the petition in an  
0061 action described under section 3, the court shall hear the motion  
0062 as provided in section 3 and shall make an order determining:

0063 (a) The current fair market value of the property as a whole,  
0064 and if the property is agricultural land and is divided into  
0065 parcels, the court shall determine the fair market value of each  
0066 parcel in addition to the value of the whole;

0067 (b) the value of each piece of agricultural property and the  
0068 value of all the agricultural property;

0069 (c) whether the defendant-owner is an insolvent farmer as  
0070 defined in this act; and

0071 (d) whether the provisions of this act are applicable to the  
0072 case.

0073 Sec. 5. (a) If the court finds that the defendant-owner is an  
0074 insolvent farmer as defined in this act and that the provisions of  
0075 this act are applicable, the court shall order a stay of the execu-  
0076 tion of the judgment for 30 days. The running of the period of  
0077 redemption shall be tolled until the court makes its order upon  
0078 the application. If the defendant-owner pays into court during  
0079 this period of time in cash or by certified check an amount equal  
0080 to the interest for one year on the fair market value of the  
0081 property, or any parcel of property if agricultural land, the court  
for a period of one year after such payment shall stay execution of

The applicant shall within 10 days from the time of filing the motion file with the court 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.

(a) in the case of agricultural land, the interest for one year on the fair market value of the land or any parcel of the land or (b) in the case of agricultural property, the interest and depreciation for one year on the fair market value of the property or (c) both such amounts if agricultural land and agricultural property are involved

0083 the judgment on the [property, or parcel of property if] agricultural  
 0084 and [upon which such interest payment was made and also stay  
 0085 execution of any money judgment. As a part of the order, the  
 0086 court shall specify the methods of providing adequate protection  
 0087 of the agricultural land or agricultural property and that failure to  
 0088 provide adequate protection as ordered by the court will result in  
 0089 the stay being extinguished and the judgment enforced.

[ , or parcel thereof, or agricultural property ]

0090 (b) Within 10 days before the end of such one-year period,  
 0091 the defendant-owner may apply for and the court may grant an  
 0092 additional one-year stay of execution of the judgment upon  
 0093 payment by the defendant-owner, in cash or by certified check,  
 0094 of an amount equal to [the interest for one year on the then  
 0095 current fair market value of the [property, or any parcel of the  
 0096 property if] agricultural land. Within 10 days before the end of  
 0097 such second one-year period, the defendant-owner may apply for  
 0098 and the court may grant an additional one-year stay of execution  
 0099 of judgment upon payment by the defendant-owner, in cash or  
 0100 by certified check, of an amount equal to [the interest for one year  
 0101 on the then current fair market value of the [property, or any  
 0102 parcel of the property if] agricultural land. After a third one-year  
 0103 stay of execution of the judgment under this section, no further  
 0104 one-year stays may be granted.

[ (a) ]

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 (b) the depreciation, if any, during the preceding one-year  
 period, as determined by the court, on the fair market value  
 of the agricultural land, or parcel thereof, or agricultural  
 property, or both ]

0105 (c) For the purpose of this section, the interest rate shall be  
 0106 fixed by the court in an amount equal to the average yield before  
 0107 taxes received on 52-week United States treasury bills as deter-  
 0108 mined by the federal reserve banks as fiscal agents of the United  
 0109 States at its most recent public offering of such bills prior to the  
 0110 time of such payment plus 2%.

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 of the agricultural land, or parcel thereof, or agricultural  
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0111 (d) If upon application of the defendant-owner the judgment  
 0112 is stayed under this act for a one-year or longer period of time,  
 0113 the defendant-owner shall be deemed to have waived any right  
 0114 to redeem the property otherwise provided by law but shall have  
 0115 a right to redeem the property as provided under this act. If  
 0116 application is made under this act to stay execution of the  
 0117 judgment and the application is denied or if the defendant-  
 0118 owner is unable to make the [interest] payment required under  
 0119 subsection (b), the judgment shall be executed as otherwise

0120 provided by law.

0121 Sec. 6. Within 10 days before the end of any such one-year  
0122 period during which a stay of execution of the judgment has been  
0123 granted under section 5 or at any time during any such one-year  
0124 period, the defendant-owner may redeem the property, or any  
0125 parcel of the property if agricultural land, upon which execution  
0126 of judgment has been stayed by paying to the judgment creditor  
0127 an amount equal to the fair market value of the property as  
0128 determined by the court under section 4 together with costs,  
0129 taxes and any other charges approved by the court to the date of  
0130 redemption, and the court at the time of redemption may deter-  
0131 mine the rights of the junior creditors, if any, to any such  
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0133 erty, fails to apply for an additional one-year period of stay of  
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0135 one-year period of stay of execution of the judgment, the stay  
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0137 otherwise provided by law.

0138 Sec. 7. If the defendant-owner who has been granted a stay  
0139 of execution of the judgment under this act fails to provide  
0140 adequate protection of the agricultural land or agricultural prop-  
0141 erty as ordered by the court, the judgment creditor may make  
0142 application to the district court for a hearing on the matter. Upon  
0143 five days' written notice to the defendant-owner a hearing shall  
0144 be held by the court. If the court finds that the defendant-owner  
0145 has failed to provide adequate protection of the agricultural land  
0146 or agricultural property as ordered by the court, the court shall  
0147 extinguish the stay and order that the judgment be executed as  
0148 otherwise provided by law.

0149 Sec. 8. The provisions of this act shall not apply to: (a) Any  
0150 agricultural land which is not occupied in good faith; (b) any  
0151 agricultural land where the premises have been abandoned by  
0152 the owner thereof; or (c) an owner who has acquired title since  
0153 January 1, 1986, to the agricultural land or agricultural property.  
0154 Sec. 9. This act shall be known and may be cited as the  
0155 family farm rehabilitation act.

0156 Sec. 10. This act shall take effect and be in force from and  
0157 after its publication in the Kansas register.

(a)

or the fair market value of the property as determined by the court at the time of redemption, whichever is greater, less any amounts paid for depreciation on such property under section 5, but in no case an amount larger than the original judgment, and (b)

The purpose of this act is to provide a procedure to effectuate a broad program of rehabilitation of distressed farmers faced with forced sales of their farming operations and oppressive debt burdens and to this end the provisions of this act should be liberally construed to provide distressed farmers with the relief authorized under this act.

Sec. 10. The provisions of this act shall expire on July 1, 1991.

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*Sen Ag.*

*3/7/86*

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