

MINUTES OF THE Senate COMMITTEE ON AgricultureThe meeting was called to order by Senator Allen at
Chairperson10:12 a.m./~~XXX~~ on March 25, 1986 in room 423-S of the Capitol.All members were present ~~except~~:Committee staff present: Raney Gilliland, Legislative Research Department
Arden Ensley, Revisor of Statutes DepartmentConferees appearing before the committee: Bill Fuller, Kansas Farm Bureau
Ivan Wyatt, Kansas Farmers Union
Emmett Koch, farmer, Centralia
Howard Tice, Kansas Association of Wheat Growers
Representative Lloyd Polson
Ron Wilson, Farm Credit Council
Jim Maag, Kansas Bankers Association

Senator Allen called the Committee to order and called on Bill Fuller to testify on HB 2996.

Mr. Fuller gave copies of his testimony to the Committee (attachment 1). Mr. Fuller expressed support for HB 2996 and the need for cooperation by both farmers and lenders during these difficult times.

The Chairman thanked Mr. Fuller and called on Ivan Wyatt to testify.

Mr. Wyatt expressed support for HB 2996 and stated that it and SB 696 go hand in hand. He stated that SB 696 would allow a farmer to keep part of his land and his machinery which is necessary to give a farmer a chance to remain a farmer. He expressed the concern that if anyone opposed this legislation their purpose is to remove farmers from farms. Mr. Wyatt stated that if we don't keep farmers on the farms, we will see more farmers moving to cities where they will be competing for available jobs.

During Committee discussion Mr. Wyatt answered that he had no problem with the penalty clause added to HB 2996 by the House. Mr. Wyatt answered that with SB 696 the court would decide if a farmer is eligible for this proposed legislation but in HB 2996 as it is written it might not be a court making that decision.

The Chairman thanked Mr. Wyatt and called on Emmett Koch to testify.

Mr. Koch expressed support for HB 2996 and expressed the need for the Legislature to pass this bill if other bills cannot be passed which will allow farmers a chance to keep some of their land so as to keep on farming. He stated if this Legislature is interested in helping keep farmers on their farms that they will pass this bill. He suggested that if the Committee had questions about this bill that they should ask farmers in bankruptcy how this legislation would help.

During Committee discussion Mr. Koch was asked if HB 2996, if passed, would help him. Mr. Koch stated it would help him some but he needed the help offered in other bills also. He said SB 696 would be help too late for some farmers in our state. He stated that he considered himself to be a family farmer so that says it is not just the big farmers that are in financial difficulty. Mr. Koch answered that he had heard some farmers have two or three mortgages, some of which are with the SBA.

Vice-Chairman, Senator Montgomery thanked Mr. Koch and then called on Howard Tice to testify.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:12 a.m. ~~XXX~~ on March 25, 1986

Mr. Tice expressed support for HB 2996, SB 696 and other bills that address agricultural issues. Mr. Tice stated that HB 2996 needs to be put into context with the other agricultural bills. He stated all are interested in helping keep farmers on their farms that have been on their farms for years and he feels if the bills in the Legislature at this time are combined and then passed that some legislation would be available to help a number of the farmers in our state that need help at this time. Mr. Tice encouraged passage of legislation that will help return a healthy agriculture situation to our state.

The Vice-Chairman thanked Mr. Tice and called on Ron Wilson to testify.

Mr. Wilson stated that Sam Eberly could not be present this day to testify so he handed copies of Mr. Eberly's testimony on HB 2691 (attachment 2). Mr. Wilson explained that Farm Credit Council opposes HB 2996 for the same reasons it opposes HB 2691 as listed in Mr. Eberly's testimony. Mr. Wilson said as presently written the Farm Credit Council urges non-passage of SB 696 and HB 2996. He said sometimes it is not in the best interest of all to lease back to particular farmers and the blanket provision gives the lender no choice. The provisions of this bill would delay getting land back into production by another farmer. Mr. Wilson said the farmers in the most trouble are the farmers that had borrowed the largest amounts of money. Mr. Wilson said they had met with the sponsors of SB 696 and believe they are arriving at agreements with the bill.

Mr. Wilson said that he did not want legislation passed that would end up costing the farmers who are managing to keep farming. He said that Farm Credit Council does have an account set aside to cover debt loss and the amount of the fund is determined by regulations. He also answered that their loans are classified at least once a year.

The Chairman thanked Mr. Wilson and called on Representative Lloyd Polson to testify.

Representative Polson, a proponent, stated that HB 2996 was introduced so that a farmer would have first chance to lease back the farm he had been farming. He stated an amendment to the bill by the House added a penalty for a lender who refuses to offer first lease or buy back of a farm to the farmer who had owned the farm. The amendment also requires that a farmer, by paying a cash rental fee, would be allowed to farm his farm land.

The amendment also requires a lender, if a farm is to be rented out for cash rent, to offer the farmer who had owned the land first chance at the cash rental offer. Representative Polson said that if a lender does not lease farm land to anyone then it does not fall under the provisions of this bill.

The Chairman thanked Representative Polson and called on Jim Maag to testify.

Mr. Maag gave copies of his testimony to the Committee (attachment 3). Mr. Maag stated that all banks in Kansas are working with farmers to help them but by the time of a foreclosure it is too late to be able to help a farmer. Mr. Maag stressed he felt legislation such as this was opening up doors for more litigation in our court system. Mr. Maag stated that SB 696 was the better of the two bills because it states that the decision of whether a farmer has enough equipment to farm with will be made in a district court. Mr. Maag suggested that maybe HB 2996 would be better if it had language more like SB 696 which states that the district court shall decide if a farmer has enough equipment to continue farming.

The Chairman announced that the time for Committee meeting was over; he declared the hearing closed on HB 2996; then he adjourned the Committee at 11:05 a.m.

GUEST LIST

COMMITTEE: SENATE AGRICULTURE

DATE: March 25, 1986

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Diane Duffy	Lawrence	Cover Office
Howard M. Lee	Haroldston	KAWG
Mary Harper	Healy	
Joe Conley	Delia	Farm Credit Center
Butch Harris	Soldier	" " "
Stan Litter	Delia	Farm Credit Center
JAMES NORRIS	NORWAY	" " "
Freda Dahbins	Goff	
Ken Schultz	Topeka	Farm Credit Center Sales
Joe Horvath	Wichita	Farm Credit Services
RON WILSON	Wichita	Farm Credit Council
Ed Reznick	Whiting	Ks. Rural Center
Bruce Zarke	Baldwinville	Farmer
Marvin C. Umholtz	Topeka	KCOML
Bill Fuller	Manhattan	Ks. Farm Bureau
John Blythe	"	" " "
Kathy Peterson	Topeka	CKFO
Joe Lieber	"	Ks. Co-op Council
Donna Smith	Topeka	Ks. Bar Assoc.
John Hanna	Topeka	Associated Press
Don Becker	CENTRALIA	FARMER
Keon Bergberg	Centralia	Farmer
Oleg Beebe	Centralia	Farmer
John Rump	Conroy	Farmer
MIKE BEAM	TOPEKA	Ks. LUSTK ASSN.

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PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE
Senator Jim Allen, Chairman
March 25, 1986

RE: H.B. 2996 - Requires creditors who acquire agricultural land in settlement of debt to offer debtor or prior owner first opportunity to lease the land for farming

Presented by:
Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

* * * * *

Mr. Chairman and Members of the Committee:

I am Bill Fuller, Assistant Director of the Public Affairs Division of Kansas Farm Bureau. I am speaking on behalf of the farmers and ranchers who are members of Kansas Farm Bureau. We are PROPONENTS of H.B. 2996 . . . which requires creditors who acquire agricultural land in settlement of debt to offer the debtor or prior owner first opportunity to lease the land for farming.

Delegates representing the 105 county Farm Bureau's at the 67th Annual Meeting of Kansas Farm Bureau adopted this policy statement expressing the need for cooperation by both farmers and lenders during these difficult times:

Agricultural Credit

"...In these difficult times neither farmers nor lenders will succeed by themselves if the other fails. We need credit programs that are mutually beneficial for farmers and lenders, programs that will assist farmers and ranchers to maintain viable operations, and programs that will give lenders sufficient latitude to work with producers who have credit or debt difficulties..."

3-25-86 Sen. Ag.
attachment 9

The bill provides protection to the lender (lines 0061-0065)
"the debtor . . . has advance cash rent adequate implements and
access to the necessary agricultural production inputs to carry on
a viable farming operation."

To assure this proposal is a viable opportunity for leasing
and farming the land, we appreciate the adoption by the House
Committee of the amendment we proposed on line 0067 which requires
that the same lease terms be offered the debtor or prior owner as
offered any other potential lessee.

Thank you Mr. Chairman and Members of the Committee. We will
attempt to respond to any questions you might have.

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TESTIMONY FOR SAM EBERLY

CHAIRMAN OF THE BOARD

WICHITA DISTRICT FARM CREDIT COUNCIL

FOR

SENATE AGRICULTURE COMMITTEE

TOPEKA, KANSAS

MARCH 24, 1986

3-25-86 Sen. Ag.
attachment 2

MR. CHAIRMAN, I AM SAM EBERLY, A FARMER/STOCKMAN FROM THE WICHITA, KANSAS AREA. I AM CHAIRMAN OF THE BOARD OF THE NINTH FARM CREDIT DISTRICT AND 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 AND RURAL UTILITY COOPERATIVES. AS OF FEBRUARY 28, 1986, FARM CREDIT SERVICES PROVIDED MORE THAN 5.5 BILLION DOLLARS FOR NEARLY 70,000 FARMERS, RANCHERS AND COOPERATIVES THROUGHOUT KANSAS, OKLAHOMA, COLORADO AND NEW MEXICO.

MR. CHAIRMAN, AS WE CONSIDER LEGISLATIVE PROPOSALS, WE MUST NEVER LOSE SIGHT OF THE FACT THAT THE FUNDAMENTAL PROBLEM FACING BOTH FARMERS AND FARM LENDERS IS INADEQUATE FARM INCOME. AS FARMERS HAVE AN OPPORTUNITY FOR PROFIT, THEY ARE BETTER ABLE TO SERVICE THEIR DEBTS AND TO GENERATE ECONOMIC GROWTH WHICH BENEFITS ALL OF RURAL AMERICA. WE NEED TO WORK ON OUR CREDIT PROBLEMS, BUT WE MUST REMEMBER THAT FARM INCOME IS THE KEY.

BECAUSE OF THE WEAK FARM ECONOMY, WE MUST ALSO RECOGNIZE THAT MANY FAMILY FARMERS ARE FACING THEIR MOST SERIOUS ECONOMIC CHALLENGES. WE MUST ACKNOWLEDGE THE UNFORTUNATE HUMAN TRAGEDY OF THOSE FARMERS WHO DO LEAVE THE BUSINESS, AND DO WHAT WE CAN TO HELP.

MR. CHAIRMAN, WE HAVE REVIEWED HOUSE BILL 2691 AND ALSO HOUSE BILL 2996, BOTH OF WHICH HAVE ALREADY PASSED THE HOUSE. I KNOW THAT YOU HAVE HEARINGS SCHEDULED ON THE SECOND OF THESE BILLS TOMORROW, BUT IT WILL BE IMPOSSIBLE FOR ME TO BE HERE AT THAT TIME. RON WILSON WILL BE HERE TOMORROW, BUT SINCE SOME OF OUR CONCERNS ARE THE SAME FOR BOTH BILLS, I WOULD LIKE TO BRIEFLY POINT OUT THOSE CONCERNS AT THIS TIME.

WE ARE OPPOSED TO BOTH H.B. 2691 AND H.B. 2996. THE FIRST BILL WOULD REQUIRE THE LENDER TO LEASE AN ACQUIRED PROPERTY TO A PREVIOUS OWNER AND THE SECOND WOULD REQUIRE THE LENDER TO OFFER AN ACQUIRED PROPERTY FOR SALE BACK TO THE PREVIOUS OWNER.

WE RECOGNIZE THESE MEASURES ARE WELL INTENDED. IN FACT, THE SPONSORS OF THE LEGISLATION HAVE A VALID POINT TO THIS EXTENT: THERE ARE CASES WHERE IT IS PRACTICAL AND WORKABLE FOR THE PREVIOUS OWNER TO REPURCHASE THE PROPERTY, AND THERE ARE CASES WHERE IT IS IN EVERYONE'S BEST INTEREST TO LEASE THE PROPERTY BACK TO THE PREVIOUS OWNER. HOWEVER, IT IS NOT PRACTICAL OR WORKABLE IN EVERY CASE.

THE POLICY OF FARM CREDIT SERVICES IS SUFFICIENTLY BROAD TO ALLOW A REPURCHASE AND/OR A LEASEBACK WHERE PRACTICAL AND APPROPRIATE. WE DO HAVE STRONG OBJECTIONS TO THE ADDITIONAL REQUIREMENTS OF THESE BILLS, WHICH WILL MANDATE THESE PRACTICES IN EVERY CASE.

IN FACT, FARM CREDIT SERVICES HAS A FORBEARANCE POLICY WHICH CAN HELP QUALIFYING BORROWERS TO STAY ON THE PROPERTY IN THE FIRST PLACE. OUR POLICY PROVIDES FOR US TO REACH AN AGREEMENT WITH THE BORROWER TO RENEW, RESCHEDULE, DEFER PAYMENT, REAMORTIZE AND AVOID FORECLOSURE AS LONG AS HE:

1. IS DOING HIS HONEST BEST TO FULFILL HIS OBLIGATION;
2. IS BEING COOPERATIVE WITH HIS LENDERS; AND
3. IS CAPABLE OF WORKING OUT OF HIS DEBT-BURDEN AS DETERMINED BY A CAREFUL CREDIT ANALYSIS OF BOTH HIS PRESENT AND PROJECTED FINANCIAL CONDITION.

THIS POLICY INVOLVES A COST TO AGRICULTURAL LENDERS, BUT WE BELIEVE IT IS ONLY FAIR THAT THESE FARMERS AND RANCHERS HAVE THIS ADDITIONAL OPPORTUNITY TO SUCCEED. HOWEVER, WE ARE CONCERNED ABOUT THE ADDITIONAL, BURDENSOME REQUIREMENTS OF H.B. 2691 AND H.B. 2996.

H.B. 2691 REQUIRES THE LENDER TO ALLOW A REPURCHASE ON THE "SAME TERMS AND CONCESSIONS." UNDER THE BILL, LENDERS WOULD BE REQUIRED TO OFFER THE SAME TERMS TO HIGH RISK BORROWERS AS TO LOW RISK BORROWERS, WHICH IS UNFAIR, IMPRACTICAL AND UNSOUND. THE ALTERNATIVE IS THAT 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.

THE SECONDARY EFFECTS OF THESE REQUIREMENTS CAN HAVE SUBSTANTIAL ADVERSE AFFECT ON AGRICULTURAL CREDIT. GENERALLY SPEAKING, THE REQUIREMENTS OF THESE BILLS WILL EXTEND OR DELAY THE TIME PERIOD IN WHICH AN ACQUIRED PROPERTY IS MOVED INTO THE HANDS OF ANOTHER PRODUCING FARMER. CURRENTLY, THE COST OF THESE ACQUIRED PROPERTIES IS A SUBSTANTIAL BURDEN ON KANSAS FARMERS AND RANCHERS.

ADDITIONAL DELAY CAN BE VERY COSTLY. BY ONE UNOFFICIAL ESTIMATE, OUR CURRENT ACQUIRED PROPERTIES ARE COSTING KANSAS FARMERS AND RANCHERS 34 THOUSAND DOLLARS A DAY. EVERY DAY WHICH THE PROCESS IS DELAYED COSTS FARMERS AND RANCHERS HEAVILY. THAT AMOUNT ADDS UP TO APPROXIMATELY ONE MILLION DOLLARS A MONTH. OUR FARMER AND RANCHER MEMBERS CANNOT AFFORD ADDITIONAL DELAYS AND RESTRICTIONS.

BEYOND THAT, THE FARM CREDIT AMENDMENTS ACT OF 1985 AUTHORIZED A CAPITAL CORPORATION TO, AMONG OTHER THINGS, PURCHASE ACQUIRED PROPERTIES FROM FARM CREDIT INSTITUTIONS. AS ADDITIONAL RESTRICTIONS ARE PLACED ON THESE PROPERTIES, THE CAPITAL CORPORATION WILL PAY LESS FOR THEM -- WHICH WILL LIMIT THE EFFECTIVENESS OF THE NEW LEGISLATION AND REDUCE THE BENEFITS TO KANSAS FARMERS AND RANCHERS.

THE TWO HOUSE BILLS DO ALLOW SUBSTANTIAL PRIVILEGES TO THE PREVIOUS OWNER. IN EFFECT, THEY ALLOW A WRITE-DOWN OF DEBT THROUGH THE BACK DOOR. IF WE START TO FORGIVE DEBT THROUGH THIS METHOD, WHERE DO WE STOP? A MORE FAIR AND REASONABLE POLICY IS TO ALLOW REPURCHASE AND LEASEBACK TO THE PREVIOUS OWNER ON A CASE-BY-CASE BASIS AS WE CURRENTLY PROVIDE.

IN CLOSING, I WOULD LIKE TO MAKE SOME GENERAL COMMENTS. FIRST, AMERICAN FARMERS ARE FACING SERIOUS FINANCIAL STRESS TODAY. SINCE THE FARM CREDIT SYSTEM LENDS ONLY TO AGRICULTURE AND RURAL AMERICA, WE FEEL THE STRESS OF OUR FARMER/RANCHER OWNERS FIRST AND FOREMOST. FOR 1985, THE WICHITA DISTRICT REPORTED ITS LARGEST FINANCIAL LOSS IN HISTORY. WE BELIEVE WE ARE MANAGING THIS FINANCIAL DIFFICULTY, BUT WE ARE VERY CONCERNED ABOUT ADDITIONAL COSTS WHICH COULD BE IMPOSED BY SOME OF THE PENDING PROPOSALS AND WHICH MUST BE PASSED ON TO OUR OTHER BORROWERS.

SECOND, THESE PROPOSALS MIGHT BE COUNTERPRODUCTIVE IN THAT THEY WOULD ENCOURAGE FARMER/RANCHER BORROWERS TO DEFAULT ON THEIR OBLIGATIONS. I BELIEVE THAT OUR BORROWERS ARE DOING THEIR HONEST BEST, BUT IT IS ALL THE MORE DIFFICULT FOR THEM TO MEET THEIR OBLIGATIONS AS THEY ARE ASKED TO BEAR ADDITIONAL COSTS.

FINALLY, I AM A FARMER AND A BORROWER OF THE SYSTEM. TODAY, I AM REPRESENTING THE VAST MAJORITY OF OUR FARMER/RANCHER MEMBERS WHO ARE MAKING PAYMENTS. WE ALL KNOW THAT AGRICULTURE FACES HARD TIMES, AND WE ARE ALL FACING THE SAME DIFFICULT CONDITIONS.

THESE LEGISLATIVE PROPOSALS MAY BE WELL INTENDED, BUT THEY ARE INCREASING THE COST TO PAYING FARMERS. THIS HAS THE NET EFFECT OF PLACING EVEN MORE FARMERS AND RANCHERS INTO ECONOMIC DISTRESS, AND IT IS TIME TO DRAW THE LINE. WE URGE YOU TO BE FAIR TO THE VAST MAJORITY OF THESE BORROWERS WHO ARE MAKING THEIR PAYMENTS AND TO REJECT H.B. 2691 AND H.B. 2996.

AT THE SAME TIME, WE RECOGNIZE THE SEVERITY OF THE CREDIT PROBLEMS FACING FARMERS, AND WE WOULD LIKE TO FIND REASONABLE SOLUTIONS. OF COURSE, THE SENATE HAS ALREADY PASSED A VERSION OF A FARM CREDIT RELIEF PROPOSAL AND THE HOUSE HAS PASSED THE TWO BILLS WE ARE DISCUSSING TODAY. WE ARE DEEPLY CONCERNED ABOUT THE IMPACT ON AGRICULTURAL LENDING IF THESE MULTIPLE, COSTLY PROPOSALS WERE ALL TO BE ENACTED. WE WOULD LIKE TO WORK WITH YOU WHERE POSSIBLE, BUT WE BELIEVE THESE HOUSE BILLS SHOULD BE REJECTED.

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO MAKE COMMENTS ON BEHALF OF OUR FARMER AND RANCHER MEMBERS. THANK YOU.

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The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

TO: Senate Committee on Agriculture
FROM: Kansas Bankers Association
James Maag, Director of Research
RE: HB 2996

Mr. Chairman and members of the Committee:

Thank you for the opportunity to present testimony concerning HB 2996. In its present form the bill would require creditors who have acquired agricultural land by process of law in the collection of debt to notify the debtor or former owner of their intent to lease any or all of the land for farming purposes. The former owner or debtor would have the first opportunity to lease the land for farming upon "such terms and conditions as may be reasonable".

We believe it is important to note that Kansas bankers today are working closer than ever before with their farm customers in order to keep those farmers in business. As we have pointed out in previous testimony, bankers are exhausting every possible avenue before moving to a foreclosure action. In many instances, one of the approaches being used is for the farmer who simply cannot handle his present debt load to voluntarily convey the land back to the bank and then have the bank lease it back to that farmer under conditions which will allow that farmer to possibly recover and be in a position to later regain his land. Thus, in most instances, the bank will have already considered a leasing option prior to foreclosure for any customer who has a reasonable chance of surviving.

HB 2996 greatly restricts the lender's ability to determine how to handle its non-earning assets and, in fact, really gives the former owner or debtor some determination as to how the lender is going to be able to handle any possible leasing operation. Whereas the bank might be able to work out a practical leasing arrangement with a credit-worthy customer they will be forced to structure their leasing policy to handle the least credit-worthy customers. The end result may well be to force this land to public sale which will only have a further depressing effect on an already depressed farmland market.

Office of Executive Vice President • 707 Merchants National Building
Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444

3/25/86 Sen. Ag. attachment 3

The bill also contains an enormous potential for costly litigation by first failing to define key terms such as "adequate implements", "necessary . . . inputs", "viable farming operation" and then imposing an extremely unreasonable civil fine for non-compliance with the act. In addition, the notification procedure leaves the lender in a very vulnerable position by not requiring the debtor to respond to the bank's notification by registered mail.

Again we would emphasize that if the debtor has a reasonable chance of surviving the bank will have already considered the possibility of a lease-back operation. To force the bank to offer a leasing option to a debtor for whom the bank has considered all viable alternatives prior to foreclosure is unreasonable and we respectfully ask the committee to report HB 2996 adversely.