

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at  
Chairperson

10:11 a.m./~~p.m.~~ on March 25, 1987 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 Department

Conferees appearing before the committee: Sam Brownback, Secretary of State Board of  
Agriculture  
Paul Monty, lawyer, Washington County  
Ed Pugh, Attorney, Wamego  
Senator Wint Winter  
Carol Smith, Jewish Community Relations  
Ronald Schneider, Kansas Rural Center  
Adra Burks, Kansas Legal Services  
Ivan Wyatt, Kansas Farmers Union  
Chuck Stones, Kansas Bankers Association  
John Price, ag lender, Merchants National Bank  
Ron Wilson, Farm Credit System

Senator Allen called the Committee to order and called attention to HB 2253; he then called on Sam Brownback to testify.

Mr. Brownback gave copies of his testimony to the Committee (attachment 1) and expressed support for HB 2253.

The Chairman thanked Mr. Brownback and next called on Mr. Monty to testify.

Mr. Monty handed copies of his testimony to the Committee (attachment 2) and expressed support for HB 2253 which, if passed, would help keep farmers on their farms after foreclosure. Mr. Monty suggested one amendment that would say, "that upon motion of the creditor being filed with the District Courts for the foreclosure took place that if the court finds that it is commercially unreasonable to sell in parcels as the bill defines that the court could enter an order that that not be done".

The Chairman thanked Mr. Monty and called on Ed Pugh to testify.

Mr. Pugh expressed support for HB 2253 and seconded the testimony of both Mr. Brownback and Mr. Monty. Mr. Pugh stated that agriculture is suffering a depression and that farmers in foreclosure would be helped if property being sold by foreclosure could be sold by parcel rather than as one piece of property. Mr. Pugh stated this legislation would be good for both the creditor and the debtor.

The Chairman thanked Mr. Pugh and called on Senator Winter to testify.

Senator Winter expressed support for HB 2253 and for the amendment suggested by Mr. Monty. Senator Winter suggested another amendment that would require separate sale of the homestead itself if it could be set apart from the total parcel. The Senator expressed the feeling that this bill will not save anyone but feels this bill will require some creditors to sit down and in good faith try and work out a downsize operation for some farmers in financial trouble.

The Chairman thanked Senator Winter and called on Carol Smith to testify.

Ms. Smith gave copies of her testimony to the Committee (attachment 3) and expressed support for HB 2253.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,  
room 423-S, Statehouse, at 10:11 a.m. ~~XXX~~ on March 25, 19 87

Senator Allen thanked Ms. Smith and called on Ronald Schneider to testify.

Mr. Schneider handed copies of his testimony to the Committee (attachment 4) and expressed support for HB 2253. Mr. Schneider requested the Committee amend the bill to include that the family residence be sold separately as an individual piece of land, whether or not it had been so divided in the past. Mr. Schneider requested the Committee recommend HB 2253 favorably for passage with the suggested amendment.

The Chairman thanked Mr. Schneider and next called on Adra Burks to testify.

Ms. Burks gave the Committee copies of her testimony (attachment 5) and requested favorable passage of HB 2253.

The Chairman thanked Ms. Burks and called on Ivan Wyatt to testify.

Mr. Wyatt presented the Committee with copies of his testimony (attachment 6) and expressed support for the legislation of HB 2253.

The Chairman thanked Mr. Wyatt and called on Chuck Stones to testify.

Mr. Stones expressed support for the intent of the bill and requested the desire to have the words 'upon agreement of the parties to such action,' restored to the bill. He expressed support for the amendment to require land be sold in parcels and also requested clarification by definition to determine what a parcel is. Mr. Stones introduced John Price to testify.

Mr. Price stated that Kansas banks are not opposed to the intent of the legislation of HB 2253. He expressed concern on how tracts of land were put together over a number of years and that the cost of finding those facts out will be an additional cost that needs to be looked at. He stated in some cases parcels are dependent upon each other, such as with a central irrigation system, and in such cases those parcels should be sold in economically feasible tracts. Mr. Price requested the words deleted in line 45 be reinstated. Mr. Price stated that banks are not in business to own land; and he believes the provisions of this bill will help some farmers keep some or part of their land.

The Chairman thanked Mr. Price and called attention to written testimony sent to the Committee (attachment 7) by Ron Wilson who could not be present to present the testimony.

During Committee discussion Mr. Stones answered that Kansas banks have been helping farmers to downsize their operation in order to keep some of their farming business; he believes that Farm Credit System has been working on such plans for the last couple of months and also stated he believes with all creditors working with downsizing plans before foreclosure that it is a good sign for Kansas farmers. Questions were raised about how timber rights would be dealt with on timber lands that might be divided and how going to decide which parcel to foreclose on first.

The Chairman declared the hearing completed for HB 2253 and adjourned the Committee at 11:03 a.m.

GUEST LIST

COMMITTEE: SENATE AGRICULTURE

DATE: March 25, 1987

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
J. Patterson	Topeka	K.C. Times
Steve Suther	Manhattan	Grass & Grain
Ramona Jones	Topeka	Wichita Eagle-Beacon
Julie Andsager	Topeka	Ks Coop Council
Chip Wheelen	Topeka	McGill & Associates
Fred Lieber	Topeka	HS Coop Council
Joan Finney	"	Att. Treasurer
Kenneth M. Wilke	"	KSBA
Kellynda Holmes	Plains	leg. wife
Eleanor Kew	Coats	visitor
Mike Jensen	Manhattan	Ks Pork Producers
Adrian Butts	Topeka	Ks Legal Services
Chuck Stones	Topeka	Ks Bankers Assoc
John [unclear]	Topeka	Merchants Natl Bk
Ed Rugh	Warrens	Attorney
Joe Vogelsberg	Home	Farmer
Chris Walker	Mayetta	KANS NFD
Gladys Rogier	Moundridge	Visitor/farmer
Lana Brull	Moundridge	EHU tour
Marna Hoering	Moundridge	EHU tour
Steve Hirsch	Topeka	State Treasurer
Ed [unclear]	Buff	Ks Rural center
Irene W. Wyatt	McPherson	Ks Farmers Union
Wilbur Leonard	Topeka	Pres. Ks Farm Org
Rich McKee	Topeka	K.L.A.
Tom Tunnell	Wichita	KGEDH
Bill Fuller	Manhattan	KFB

Statement in Support of Tract Selling  
House Bill 2253

by

Sam Brownback

Whole thought.

When ill economic winds reach gale force need to provide a means to let people hunker down.

Allowing guy who carried too much debt into 80's to downsize and live to farm another day, help sustain population in rural areas.

Don't want to hurt ag credit. This will help ag credit.

Allow land to be redeemed in smaller parcels so can keep a bit of operation together. Can't afford to keep all of it.

Allow land to be sold at Sheriffs sale for more money since putting in smaller tracts.

How bill work.

Sample cases.

Idea that this will leave just the scrub land is bogus.

Still any need for this type of legislation? Yes.

2,189 nonperforming FCS loans in Kansas. 1,464 FmHA loans are delinquent.

Many economists think \$40 billion or more of total nationwide farm debt still has to be wrung out before agriculture is on solid ground again.

Chapter 12 Bankruptcy not whole solution to farm financial problem.

Some trends look to be going in right direction.

Also, this law will get more land out of creditors hands and back into private hands. This will in turn get creditors more of their money back quicker and that's what they generally seek.

attachment 1  
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PROPONENT FOR HOUSE BILL 2253

Name: Paul L. Monty  
Address: Washington, Kansas  
Occupation: Attorney  
Background: Raised on a farm in Cloud County, Kansas  
Graduated from Kansas University Law School in 1969  
Engaged in practice of law in Washington, Kansas,  
since July 1, 1969  
Counsel for: Linn State Bank, Linn, Kansas  
Elk State Bank, Clyde, Kansas  
Community State Bank, Hanover, Kansas  
Formerly Chairman of Board and Loan Committee Member of Linn State  
Bank, Linn, Kansas, currently advisory member.  
Presently representing numerous farmers in foreclosure or work-out  
situations.

TESTIMONY

The purpose of *House Bill 2253* is to require that real estate being foreclosed upon be sold in parcels if it had previously been acquired in parcels by the debtor. The reason this law is needed is to help keep farmers on their farms.

To understand this *Bill* and its purpose, a reasonable understanding of agriculture financing is necessary. Every reasonable creditor desires to have not only its loans secured, but to have them cross-collateralized. That is, to have all the debtor's property serving as collateral for all of the debtor's loans. In other words, if a farmer has three notes at the Bank, the Bank likes to have the farmer's livestock, machinery and crops as security for all three notes, as opposed to one note being secured by livestock, one by machinery and one by crops. The reason for this is that if the livestock is worth more than the balance of the livestock note, the equity in the livestock is security for the other two notes and if the balance of the machinery note is greater than the value of the machinery, the livestock equity can be used as security for the undersecured machinery note. Basically, the Bank has to be concerned only with the farmer's overall equity position. Further, as the value of the livestock and/or crops increase, this equity may be used by the farmer as security for machinery purchases.

The same situation occurs with real estate lending. When the farmer paid off part of his loan on one tract he was purchasing or

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the value of the tract inflated, he used the equity to purchase another tract. Often a new mortgage was taken on both tracts and the old debt on the first tract and purchase price of the second tract were combined as one debt covered by one new mortgage. This process often continued until there were five, six or more tracts on which there ended up being one note and one mortgage. The creditor ended up with one mortgage for one debt on numerous tracts which were purchased over a period of time. This process could also be accomplished by a mortgage being given on each tract as it was purchased and securing the later notes by all the mortgages on each tract. In other words, the loans were cross collateralized, the mortgages on the first tracts being used as security for the notes for later purchased tracts. The end result being all the tracts were security for all of the debt.

There is nothing wrong with the creditor, whether the short term operating lender or long term real estate lender, so securing its loans. In fact, it is certainly a reasonable and prudent practice.

However, there is a great difference in the short term operating creditor and the long term real estate creditor when it comes to foreclosure.

If the short term creditor has all of the farmer's livestock, machinery and crops listed on a security agreement and forecloses, the property which is security is sold. But how it is sold is greatly different than how the farmer's five quarters of land mortgaged to the long term creditor is sold.

I believe everyone would agree that if the farmer had given his fifty cows and line of farm machinery as security, it would be a commercially unreasonable sale if the creditor sold all fifty cows as one unit and all the machinery as one unit. Clearly, the reason is that there may be many buyers for one or two cows or for a certain piece of farm equipment, but practically no buyers for all fifty cows or all of the farm machinery. The Uniform Commercial Code requires the creditor to sell the cows or farm machinery in a commercially reasonable manner.

On the other hand, under current law, a farmer can have a dozen tracts of land, located several miles part, and if they are all covered by one mortgage, at the Sheriff's sale in foreclosure they are sold as one unit. What are the chances of there being one buyer other than the creditor at such a sale, let alone two? Such a sale is simply not commercially reasonable. What person owning even three or four separate tracts of real estate would auction them off as one unit? The fact is there may be several potential buyers at a sale selling four or five separate quarters

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of land, but there is only one buyer when all four or five quarters are sold as one unit---the foreclosing creditor.

This situation has particular significance at the present time due to the severe financial problems in agriculture. I have represented and am currently representing many farmers in various stages of financial disaster. The vast majority of these farmers are excellent operators. They raise as good or better crops than their neighbors. They are probably more aggressive, and this got many of them into trouble, most of them buying too much, too expensive land. Most of these farmers are determined to keep farming. Many, with the help of friends and family, and with the Bank or FmHA financing, can keep or buy sufficient machinery to maintain a farming operation, at least on a smaller scale. Also, many could keep one or two quarters, especially the home place, if it were sold as a separate tract. However, they have no way of financing four or five quarters.

The State of Kansas has established a reasonable redemption policy. As you know, the debtor has the right to redeem land foreclosed upon for six months after the Sheriff's Sale. It is amazing how many of these farmers have family or friends in the city who are willing to buy and lease back or finance the purchase of the home place or maybe even a couple of quarters. But, if four or five quarters are sold at the Sheriff's Sale as one unit, it is just not possible to buy or redeem the whole unit. The current redemption law is being made totally useless in many cases because a thousand or fifteen hundred acres are being sold as one tract, and it is not possible to redeem such a large unit.

*House Bill 2253* does not deny the creditor anything. The property is still sold. It only requires that if tracts were acquired individually, they be sold individually. This is obviously the commercially reasonable manner to sell them. What creditor has purchased a thousand acres in one tract at Sheriff's Sale and resold it as one tract? I venture to say it would be hard to find one. Why? Because the reasonable way to sell it is in smaller tracts because the smaller tracts sell for more per acre. Thus, this *Bill* does not harm creditors. It only forces them to sell the land in a commercially reasonable manner, the way they do it anyway after they purchase it at Sheriff's Sale. Why does a creditor foreclosing on personal property have to sell it in a commercially reasonable manner under the Uniform Commercial Code, but a creditor foreclosing upon 3,500 acres of land allowed to sell it as one unit---an obviously commercially unreasonable manner?

*In conclusion*, some current examples in my practice:

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(1) *Farmer with four quarters under foreclosure.* Fair market value of land is \$272,000.00. We have three buyers for the four tracts at Fair Market Value. One buyer is willing to pay \$152,000.00 for two tracts; one \$60,000.00 for one tract; and a third, \$60,000.00 for one tract. The Buyers are unrelated to each other or to the farmers and are all willing to lease the farms back to the farmer. However, it will be very difficult to purchase at Sheriff's Sale if all four farms are sold as one unit, whereas, each of the Buyers would be willing to purchase separate tracts.

(2) *Farmer with 640 acres under foreclosure, including 160 acre homestead.* Farmer has other rented ground and can finance homestead and have positive cash flow to keep farming. However, if 640 acres are sold as one unit, there will be no way to keep homestead.

(3) *Farmer with 560 acres in foreclosure.* Lives on 80 acre tract included in 560 acres, which has been family home for many years, where their children were raised. Son works in city and is willing to purchase 80 acre homestead for parents. If the entire 560 acres are sold as a unit, there is no way to save the 80 acre homestead.

(4) *Farmer with 1280 acres.* Deeded it to creditor. Creditor gave his sons right to buy back each tract. Family was able to find outsiders to purchase all tracts and lease them back. Family has been able to stay on farm and continue farming. This would have been impossible if whole 1280 acres had been sold as one unit.

attachment 2

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# the jewish community relations bureau

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The Farm Crisis Project of the Jewish Community Relations Bureau/Women's American ORT was initiated in 1986 by the Jewish Community Relations Bureau with the sponsorship of a national Jewish women's organization Women's American ORT. The Jewish Community Relations Bureau serves as the social action agency for the Jewish families of the state of Kansas. The Farm Crisis Project has two broad objectives: 1) to try to alleviate problems associated with the farm crisis through the efforts of the Jewish community, and 2) to combat the violent, racist and anti-semitic responses to the farm crisis that are promoted by some extremist individuals and organizations. In order to assist farm families and other rural people, the Farm Crisis Project has implemented social action, urban education on the rural crisis, person-to-person and social service projects.

The Jewish Community Relations Bureau would like to strongly urge you to support Senate Bill 2253. The bill provides that foreclosed land be sold in tracts or parcels which would give the foreclosed farmer a better opportunity to redeem part of their former farm land. We think this legislation is important because it will allow more distressed farmers to retain a base of operation from which to rebuild and hopefully remain in their communities. The Jewish community recognizes that many of today's distressed farmers are from the very bedrock of rural communities--men and women tragically caught in circumstances beyond any individuals control.

The following quote is from the Jewish Community Relations Bureau's "Policy Statement on The Agricultural Crisis":

Some people have blamed farmers for their problems. From the Jewish historical experience we know how inaccurate and unfair it is when the victims are blamed. As Dr. Cornelia Flora of Kansas State University points out, "The 1970's were characterized by conditions of high inflation, cheap credit and increasing land values. Experts advised farmers that those conditions would continue, and therefore it made good business sense to go into debt. Unfortunately, because of fiscal

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and monetary policy, these conditions changed and farmers were caught in a credit squeeze. In the 1980's, we saw the U.S. dollar rise in value, international competition for agricultural exports increase, the continued fall of commodity prices and real interest rates double." Farmers are not responsible for these complex economic conditions. We have seen as farm foreclosures and bankruptcies increase, not only family farms, but rural banks, rural businesses and institutions, and indeed an entire culture is threatened. Senate bill 2253 is one of the small ways we, as a society, can act to stem this tide of people leaving the land.

2016  
2017

**THE KANSAS RURAL CENTER, INC.**

304 Pratt Street

WHITING, KANSAS 66552

Phone: (913) 873-3431

Testimony in Support of H.B. #2253

Mr. Chairman and Members of the Committee:

I am Ronald Schneider, representing the Kansas Rural Center. We support H.B. #2253, and we encourage this committee to pass the bill with approval.

This legislation shall enable some farmers to stay on the land once their farm has been foreclosed upon. Upon judgment against the property owner, this bill simply requires that the agricultural land be offered for sale by individual parcels which existed at the last sale of the property. In some cases, this may enable farmers to purchase a parcel of land which enables them to remain profitable and farming.

This legislation does not change the contract between the debtor and creditor, and does not adversely affect the creditor's interest in the property. In fact, we believe that H.B. #2253 may benefit the interests of creditors, because the land may be of greater value if separate parcels are sold.

We also encourage you to amend this bill to include separation of the family residence as an individual piece of land, whether or not so divided in the past. This would accomplish two objectives: 1) Farmers may at least stay in their home, and farm land which they can afford to own, and 2) The creditor would probably receive the highest bid possible for this property, since the owner is the one buyer who is most interested

in it. This is a provision which is desperately needed in rural Kansas.

We support H.B. #2253, and request that you pass this bill with an amendment including the farm residence provision.

To: The Senate Committee on Agriculture  
From: Adra E. Burks  
Re: Effect of House Bill 2253 on Restructuring Agricultural  
Business  
Date: March 25, 1987

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I began working with Kansas Legal Services in July 1985 when the FACTS program was started. Kansas Legal Services has the contract with the FACTS program to provide legal services for farmers. I have worked exclusively with farmers since then.

In working with farmers, I have primarily concentrated on restructuring the debt of their business. Sometimes that has entailed working with farmers who are in foreclosure or have been through foreclosure. Almost always it involves situations where farmers are behind on their notes and need to change the size or the terms of their debt.

When a farmer goes through foreclosure he is not necessarily through farming nor are his problems solved. He may still owe a deficiency judgment to some lender that has a second or third mortgage on his real estate. He may also owe on a machinery note where the value of the collateral is less than the amount on the note. He may have an old operating note that has not been paid. He may still owe his coop or his feed dealer. Just because he has gone through foreclosure doesn't solve his problems on his other notes.

He does have some options. One, of course, is to take bankruptcy and walk away from it. Because of his age, skills or general indebtedness, this may not be an alternative he wishes to pursue. Secondly, he may try to do a bankruptcy reorganization; however, the legal fees on a bankruptcy reorganization are considerable. Frequently he doesn't have the money to be able to afford to do that. Thirdly, he can look at his business and see if there is a way to size it down and make the business more profitable so that he can pay off some of his other creditors.

When I'm talking about sizing down, I'm talking about looking at a way to maintain a base of operation. The farmer needs to analyze his different divisions, similar to what you would do in a manufacturing situation. He needs to look at his

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cattle operation and see if this operation is profitable. He may no longer be able to afford a cattle operation because of the size of the capital investment. He may also need to look at his pig operation and see if it is profitable. He also needs to look at his crop operation, his custom cutting operation, etc. If he can maintain a base of operation, however, he may be able to continue in the operations that are profitable. One of the primary keys to being able to do this is to maintain a base of operation. If he is in a cattle operation, he may need to have access to a feed lot. He may need to have his home close enough to some pasture that he can rent so that he can continue to raise his cattle and make his profit from that. If he is in a pig operation and he is raising feeder pigs, he may need to keep the feeder pig operation and lease crop land.

One way I've been able to do this is by obtaining private capital or by using rents and profits through the redemption period to exercise an option to purchase.

One of my first cases involved a farmer that was raising milo and wheat and had a feeder pig operation. At the time I started working with him, feeder pigs were selling at \$36 - \$38 a feeder pig. That particular farmer owed \$80,000 on his first mortgage on his land, \$9,000 on his second mortgage and \$5,000 to his third mortgage. He was then two years behind on his land payments. He also owed his local bank almost \$200,000. His gross income from farming the previous year had been \$120,000. Of that, he had paid \$38,000 in interest. Thirty percent of his expenses went to interest. He was carrying \$275,000 of debt at 12 1/2% or above. That particular farmer had a childhood friend who had become a professional person and wanted to own some real estate. He bought that land and leased it back to the farmer and then sold the farmer back his house and five acres which had the pig operation on it. From that, the farmer was able to pay off his real estate debt. Subsequently, feeder pigs went up in price and last year the man, who for the last five years has shown a loss, had to pay social security taxes on over \$40,000. He is being able to pay off his machinery notes. He has managed to pay off the second and third mortgagees on his notes and ultimately I am hopeful that he may be able to again repurchase some land. Nonetheless, I think that this farmer will be able to survive in farming until times improve. He has found a way to make income from his farming and cut out a major portion of his debt. He has an opportunity to rebuild.

Sometimes the lender will give me an option to purchase a small portion of the land. If the farmer has access to a lease hold interest in other property or can rent such property, that provides him the base to again continue.

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The option to purchase a portion of the land back is not something a creditor has to do. When you are in foreclosure you are in an adversary position. I have been very fortunate to have good creditors to work with that were receptive to this idea. However, not all creditors are receptive to that idea. Likewise, many farmers go through foreclosure and are never represented by counsel. If they are not represented by counsel this sort of arrangement, in probably 99% of the cases, is not going to be negotiated for them. One of the advantages of House Bill 2253 is that it would insure that the farmer, who was not represented, could continue in farming and would still have the option to try and purchase back a small parcel to be his base of operation.

The farmer is entitled to the rents and profits off of his land through the redemption period. Those rents and profits through that redemption period can sometimes be used to repurchase that base of operation. That could also be supplemented with loans from family members or conceivably the value of the smaller parcel and what needs to be borrowed against it would be so proportionately low that it might be such that another lender would loan for the repurchase of it.

Making money in farming has traditionally been thought of in the last 15 years as being something that you need to expand your base for economy under theory of scale. That is not necessarily the case in our society today. If someone is going to rebuild they have to be able to afford the credit to rebuild. They may have to start small and show what they can do with a smaller operation before they can grow once more. However, by cutting their debt load and being able to rent land for less than what their interest and taxes are costing them on it, it does provide them an opportunity to continue to be profitable members of our society. The real benefit that I see in House Bill 2253 is that it has the potential to enable the farmer to keep a base of operation upon which he can rebuild and continue to make an effort to pay back his debts and to restructure and improve his business.

*attachment 5*

3-25-87

STATEMENT  
OF  
IVAN W. WYATT, PRESIDENT, KANSAS FARMERS UNION  
ON  
HB-2253 (FORECLOSURE SALE OF INDIVIDUAL LAND PARCELS)  
BEFORE  
THE SENATE COMMITTEE ON AGRICULTURE  
ON  
MARCH 25, 1987

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM IVAN WYATT, PRESIDENT OF THE KANSAS FARMERS UNION.

WE RISE IN SUPPORT OF HB-2253.

HB-2253 CAN BE A VERY IMPORTANT PIECE OF LEGISLATION TO MANY PEOPLE.

LAST YEAR, DURING THE LEGISLATIVE SESSION WE HEARD FROM A GREAT NUMBER OF PEOPLE STATING IF ONLY THEY COULD KEEP PART OF THE FARM, PART OF THEIR OPERATION, THE HOME QUARTER, OR WHATEVER, THEY FELT THEY COULD MAKE A GO OF THE REDUCED SIZE OF OPERATION FOR VARIOUS REASONS. BUT IN TOO MANY CASES, THEY HAD BEEN DENIED THIS OPPORTUNITY.

IT IS IMPORTANT IT BE ESTABLISHED THAT FORECLOSED LAND SALES BE OFFERED IN SMALLER UNITS SO AT LEAST THE FORMER OWNER OR OPERATOR HAVE THE OPPORTUNITY TO PURCHASE SUCH UNITS OF REAL AGRICULTURAL PROPERTY.

WE FEEL NOT ONLY IS IT OF GREAT IMPORTANCE TO THE FORMER OWNER, BUT ALSO TO THE COMMUNITY AS A WHOLE. PRESERVING THESE SMALLER UNITS WILL HELP MAINTAIN A VIABLE RURAL COMMUNITY STRUCTURE. THIS ACTION CAN BE AN IMPORTANT FACTOR IN REVITALIZING THE RURAL COMMUNITY ECONOMY WHEN AGRICULTURE BEGINS THAT LONG AWAITED ECONOMIC RECOVERY.

THE PRESERVATION OF SMALLER AGRICULTURAL UNITS WILL BE BENEFICIAL IN THE LONG TERM FOR KANSAS AGRICULTURE BECAUSE IT CAN PROVIDE THAT STARTING PLACE FOR THE YOUNGER FARMERS. THESE SMALLER UNITS CAN ALSO LEAD THE WAY TOWARDS A MORE DIVERSIFIED AGRICULTURE IN THE FUTURE - ALLOWING MORE VALUE-ADDED ON FARM

*Senate agriculture attachment 6  
3-25-87*



LIVESTOCK FEEDING OR MORE LABOR INTENSIVE SPECIALTY CROPS.

I QUESTION THE CHANGE IN LINE 0042, AND IF THAT CHANGE MEANS BOTH PARTIES HAVE TO BE IN AGREEMENT BEFORE THERE CAN BE THIS DIVISION AND SALE IN PARCELS.

THIS WAS THE PROBLEM IN THE PAST, HOWEVER, WE UNDERSTAND AFTER THE COURT RULING ON SB-696, THE CHANGE ON LINE 0042 MAY BE NECESSARY.

IF THIS IS THE CASE, THEN IT IS VERY IMPORTANT THAT THE LANGUAGE PERTAINING TO THE FACTS ASSISTANCE IN NEGOTIATIONS OF THESE SALES IN LINES 0049 AND 0052 ARE VERY NECESSARY.

THANK YOU.

**Wichita District  
Farm Credit Council, Inc.**

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245 North Waco  
P.O. Box 2940  
Wichita, Kansas 67201-2940  
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March 24, 1987

The Honorable Jim Allen, Chairman  
Senate Agriculture Committee  
Kansas Senate  
State Capitol  
Topeka, Kansas 66612

Dear Mr. Chairman:

I want to commend you for the leadership you are providing to Kansas agriculture. I also want to comment on legislation pending before your committee.

House Bill 2253 would require that land which is taken on execution issued following an action for mortgage foreclosure must be sold in separate parcels, if such land had been divided into separate, identifiable parcels at the previous time of sale. We appreciate the intentions behind this legislation, but we do not believe it is necessary and it could in fact be administratively burdensome. In some cases, it is to everyone's advantage to separate a land holding into separate parcels, but there are other cases where this would not be advantageous. Let me explain what we are already doing.

Since December 1, 1986, there has been a new group of specialists within Farm Credit Services called the Special Assets Group which is working with our most distressed borrowers' loans. They have worked very effectively thanks to the cooperation of the farmers, attorneys, and other lenders involved. From December 1, 1986 to February 19, 1987, the Special Assets Group had completed work on 738 loans. These loans represent our most distressed cases and 1 year ago they would probably all have been in foreclosure. However, in more than 300 of these cases, the loans have been restructured or some other means has been found of keeping the farmer on the land. A number of these settlements include allowing the farmer to retain his homestead and a few acres. In 675 cases -- more than 90 percent -- we have been able to reach an agreement with the borrower outside of court and managed to avoid foreclosure. We think this is an excellent record, in only 2 and 1/2 months.

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The Special Assets Groups is also involved in the sale of our acquired properties. Many of these properties are sold back to the previous owner or to a relative of the previous owner. This too is different from 1 year ago, when sales to the previous owner were discouraged. In more than two-thirds of our acquired property sales, the purchaser is a local farmer or rancher.

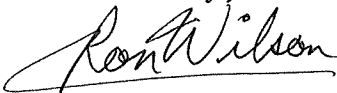
I should also point out that the Farm Credit Council will support H.B. 2300, which requires lenders to provide advance notice to borrowers of adverse action and which allows debtors an opportunity to have their mortgage re-instated. I know that this legislation has been referred to the Judiciary Committee rather than to your committee, Mr. Chairman, but I wanted you to know that we will accept that legislation in the spirit of cooperation.

In addition, we support the Farmer Assistance Counseling and Training Service (FACTS). We believe there is much benefit in the services for farmers which FACTS provides, and we commend the FACTS staff and the State Board of Agriculture.

In view of our new debt restructuring policies, our willingness to work with borrowers and previous owners, and our support for H.B. 2300, we would hope that H.B. 2253 would not be necessary. However, if the committee should choose to approve H.B. 2253, we hope that the committee will restore the language on line number 45 of the bill. The language on line number 45 which says "upon agreement of the parties to such action," was approved on a bi-partisan vote by the House Agriculture Committee. This provision, which was later struck from the bill, would make the parcel sale mandatory only when an agreement is reached between the creditor and the previous owner, so it will encourage both parties to reach agreement.

Thank you again for your consideration.

Sincerely,



Ron Wilson  
Executive Director

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