

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by REPRESENTATIVE SUSAN ROENBAUGH at _____
Chairperson

9:00 a.m./~~p.m.~~ on February 22, 1990 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee: James S. Maag, Senior Vice President,
Kansas Bankers Association
John Means, Chairman of the Board,
Citizens State Bank and Trust Company,
Hiawatha
Shirley R. Sikes, Executive Vice President,
Leonardville State Bank, Leonardville
Craig A. Wheeler, Vice President, Fidelity
State Bank, Garden City

Chairman Roenbaugh opened hearings on HB 2785 - Kansas act for filing of effective financing statements. The chairman asked for testimony from proponents only.

James S. Maag, Kansas Bankers Association, testified in support of HB 2785 stating this is an issue which heavily impacts agricultural lenders, borrowers, and sellers. Mr. Maag further stated the KBA truly believes a centralized system would be in the best interest of all parties involved in the sale of farm products. (Attachment I).

John Means, Citizens State Bank and Trust Company, Hiawatha, testified in support of HB 2785 stating the present law does not provide sufficient protection to Kansas lenders who support our agricultural production and Kansas economy. He further stated HB 2785 is a "must" if the legislature is to act in fairness to the needs of agricultural lenders. (Attachment II).

Shirley R. Sikes, Leonardville State Bank, testified in support of HB 2785 stating the Leonardville State Bank cannot continue to lose loans, pay the increased costs of pre-notification (approximately \$10.00 per customer) and serve the ag needs of the area. (Attachment III).

Craig Wheeler, Fidelity State Bank, Garden City, testified in support of HB 2785. Mr. Wheeler furnished the Committee with samples of a Security Agreement Supplement (Farm Products) and a Notice to Buyer of Security Interest in Farm Products for their information. (Attachment IV).

James Maag presented the committee with copies of Central Notification System Question and Answer Sheet. (Attachment V).

A lengthy question and answer period followed the testimony.

Chairman Roenbaugh announced the hearings tomorrow will be opponents only.

The meeting adjourned at 10:00 a.m.

The next meeting of the House Agriculture and Small Business Committee will be Friday, February 23, 1990 at 9:00 a.m. in Room 423-S.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 22, 1990

TO: House Committee on Agriculture and Small Business
RE: HB 2785 - Establishing a system for effective financing statements

Madam Chairman and Members of the Committee:

Thank you for this opportunity to discuss the issue of notifications on the sale of farm products and the provisions of HB 2785 with the committee. This is an issue which heavily impacts agricultural lenders, borrowers, and sellers and we truly appreciate the committee's willingness to consider much-needed changes in the current situation.

Section 1324 of the 1985 Food Security Act passed by the U. S. Congress overturned a century of commercial law relating to the sale of farm products and also pre-empted the rights of the Kansas Legislature or any other state legislature to enact laws on this subject. Every state except Louisiana had incorporated in its Uniform Commercial Code specific language relating to the sale of farm products. Those state actions were all nullified by the provisions of Section 1324. Once again Congress, with the assistance of various farm organizations, had decided they knew better than you, the Legislature, what was best for Kansas and our sister states. And, as is so often the case, in their attempt to solve what some thought was a problem Congress only created a larger one.

Section 1324 became effective on December 24, 1986, and permits each state to choose between two alternative methods of dealing with the sale of farm products subject to a perfected security interest. It provides that buyers buy free of a perfected security interest unless the buyer receives written notice from the lender or, in the alternative, the state may adopt a "central filing system" in which the Secretary of State provides those buyers who register or request it with appropriate lists of "effective financing statements" which have been filed on farm products.

It is obvious by the introduction of HB 2785 that Kansas has not, to this point, chosen to create a centralized system and, therefore, all Kansas lenders are forced to use the so-called "prenotification" approach if they want to inform potential buyers of the existence of a lien on certain farm products which are serving as collateral for a loan. Under the prenotification process borrowers are requested each year to give the lender a list of potential buyers of their farm products. They are also requested to update that list if changes occur. Lenders must then send individual notices to each potential buyer and such notices are effective for only one year. If the debtor still sells "off-list", i.e., to some buyer other than one the debtor had listed, the debtor is subject to a stiff federal "fine" if the proceeds are not remitted within 10 days following the sale. The "fine", however, would accrue to the federal government - not to the lender who is left without recourse against the debtor even though the lender has complied with every aspect of the law.

It is, by now, readily apparent to you that the prenotification process has not worked well over the past three years even though we have seen a strong upswing in the agricultural economy of Kansas. The letters you have been receiving from bankers tell much better than I can relate the frustration of a process which can leave the lender without recourse despite compliance and which is being ignored by the very buyers who insisted that prenotification was the most practical solution to the problem.

Lenders throughout the state report that not only have they suffered losses due to off-list sales, but they have also had hundreds and hundreds of buyers who have been properly notified fail to - or in some instances refuse to - make out two-party checks in payment for the farm products specified in the notice. Fortunately, for all parties concerned, almost all Kansas ag producers are honest people who bring the checks to the bank anyway, but it only takes the illegal actions of a few to create enormous problems for the lending institution. It is also important to remember that the past three years have been a period of relative prosperity in Kansas agriculture. If we experience another agricultural downturn such as the one of the mid-1980s we can expect problems with the prenotification process to increase dramatically.

There is no doubt that the lack of system which provides a more rational method of securing farm products used as collateral has caused Kansas ag lenders to strict their lending practices with marginal customers and this is bound to hurt the people who need assistance the most. From 1986 through mid-1989 statewide figures for Kansas banks show that lending for agricultural production purposes has declined by nearly \$100 million even though the picture for agriculture has improved markedly in that time period. Obviously that entire decline cannot be attributed only to prenotification problems, but those problems constitute a significant part of that decline.

There is a better way to address this problem and we only have to look to our neighbors to the north to find a solution. Nebraska has had a centralized system since the federal law went into effect. It is a system which bankers and ag groups both worked to establish and one which they have found to be very functional. I have attached to this testimony a letter from a Kansas banker in a border county who deals with the Nebraska system all the time and finds it far superior to the prenotification process he must follow in Kansas. We would strongly urge the committee to take a close look at the Nebraska system and see if it would be possible to create such a system for Kansas.

We truly believe a centralized system would be in the best interests of all parties involved in the sale of farm products. It would end the yearly hassle for borrowers and lenders of supplying a buyer list and making costly notifications. It would give buyers a uniform list to work from and one specific place to call for information. It would eliminate the possibility of a costly fine for borrowers and, most importantly, would enhance credit availability for marginal ag borrowers.

Your favorable consideration of HB 2785 would be greatly appreciated.


James S. Maag
Senior Vice President

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STATE BANK OF BERN

PHONE 913-336-6121

BERN, KANSAS 66408

OFFICERS

JAMES E. SHEIK, Chairman
WILLIAM J. SHEIK, President
JAY FANKHAUSER, Exec. Vice Pres.
CHARLES ROSENGARTEN, Vice Pres. & Cashier
DANA DAVIDSON, Ag. Rep.
NANCY BAUMGARTNER, Asst. Cashier

February 15, 1990

Rep. Susan Roenbaugh
Chairman.
House Committee on Agricultural & Small Business
State Capital Bldg.
Topeka, KS 66612

Dear Representative Roenbaugh,

I am a agricultural loan officer at the State Bank of Bern, Kansas. As we are located only two miles form the Nebraska line, I secure our agricultural loans according to the laws of both Kansas and Nebraska. The State of Nebraska has established a Central Filing System while the State of Kansas is still laboring under the burden of "Prenotification".

In order for me to obtain a effective lien on agricultural products in the State of Nebraska, I simply complete and ask our borrower to sign a "Nebraska Effective Financing Statement" (sample, courtesy of U.S. Checkbook Co., enclosed). This single statement costs \$5.00 to file and is in effect for five years. The State of Nebraska then provides lists to all agricultrual product buyers who subscribe.

In contrast, Kansas's method of effective filing is as complex and ineffectual as Nebraska's system is simple and effective. Kansas law requires me to send each one of my borrowers' "potential" agricultural product buyers a notice that the bank has a lien on the debtors products. In order for Prenotification to be documented, these notices should be sent certified mail and must be repeated every year.

Aside from the fact that the system that Kansas has endorsed is cumbersome and expensive, it does not work! The reason both filing systems exist is to prevent agricultural products from being sold out of trust. This allows credit to be extended to those agricultural producers who do not have assets sufficient to qualify for conventual loans. If a Kansas borrower decides to sell his crop or livestock and not pay his loan with the proceeds, all he needs to do is sell to a buyer that has not been notified by the bank. The debtor risks a fine by doing so but this is no comfort to the lender who has lost all the money he loaned and has no recourse. Therefore, a prudent lender will not loan money for the production of crops or livestock unless the loan applicant has a strong financial statement. This restricts lending to the very producers who need credit the most.

Please pass HB 2785 so Kansas lenders can continue to extend affordable credit to all of our agricultural borrowers. Thank you.

Sincerely

A handwritten signature in cursive script that reads "Dana Davidson".

Dana Davidson, VP
State Bank of Bern

Nebraska Effective Financing Statement

EFS-1

This Statement must be typed or printed. Illegible Statements will be returned without filing.

1. DEBTOR			2. ADDITIONAL DEBTOR			3. ADDITIONAL DEBTOR		
Name (Last, First)			Name (Last, First)			Name (Last, First)		
Mailing Address			Mailing Address			Mailing Address		
City	State	Zip Code	City	State	Zip Code	City	State	Zip Code
Soc. Sec. No. or Fed. Tax I.D. No.			Soc. Sec. No. or Fed. Tax I.D. No.			Soc. Sec. No. or Fed. Tax I.D. No.		
4. ADDITIONAL DEBTOR			5. ADDITIONAL DEBTOR			6. SECURED PARTY		
Name (Last, First)			Name (Last, First)			Name (Last, First)		
Mailing Address			Mailing Address			Mailing Address		
City	State	Zip Code	City	State	Zip Code	City	State	Zip Code
Soc. Sec. No. or Fed. Tax I.D. No.			Soc. Sec. No. or Fed. Tax I.D. No.			Soc. Sec. No. or Fed. Tax I.D. No.		

7. PRODUCTS SUBJECT TO SECURITY INTERESTS (see instructions) A separate line must be used for each product, year and county. The secured party has a security interest in the following farm products and proceeds of the Debtor.

PRODUCT		CROP YEAR	COUNTY		PRODUCT DESCRIPTION WHEN LESS THAN ALL OF PRODUCT IS COVERED BY SECURITY INTEREST.
CODE	NAME		CODE	NAME	

All amounts/quantities of farm products listed, unless otherwise designated above, located or produced in the counties designated above, are subject to the secured party's security interest; unless a specific crop year is indicated, this Statement is applicable for every crop year for the duration of this statement and any continuation thereof.

Signature(s) of Debtor(s) below:

Signature of Secured Party below:

By _____

FOR COUNTY CLERK USE ONLY

To be filed with the county clerk of the county where the debtor resides. If the debtor is a non-resident of Nebraska this statement to be filed with the county clerk in any county in which any of the farm products are used or produced. Retain the pink copy and file the white and canary copy with the county clerk. Give the debtor goldenrod copy.

FILING FEE \$5.00

IMPORTANT

THIS STATEMENT MUST BE TYPED OR LEGIBLY PRINTED. ILLEGIBLE STATEMENTS WILL BE RETURNED WITHOUT FILING. PRECISION IN SPELLING, WRITING NUMBERS, AND EXACT DESIGNATION OF NAMES IS IMPERATIVE.

INSTRUCTIONS

BLOCKS 1-5, DEBTOR. ("Debtor" includes any person subjecting a farm product to a security interest).

NAME.

- a) Names of individual debtors must be entered one per line. Names of individuals must be entered with the surname (last name) first, followed by the individual's first name and middle initial or name, if any.
- b) Corporate names or other entities not a natural person must begin with the first word or character of the name not an article or punctuation mark.

SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION NUMBER.

- a) For each individual debtor named, the Social Security Account number must be entered.
- b) For each corporation, partnership or other entity which has been assigned an I.R.S. Taxpayer identification Number (Fed Tax ID No.) which is named as a debtor, the Fed Tax ID No. must be entered.

DEBTOR ADDRESS. The address of each debtor must be entered. At least a city, state, and zip code must be entered, and a more exact address if available.

BLOCK 6, SECURED PARTY. Name and address must be completed. The Federal Identification Number or social security number is optional.

BLOCK 7, PRODUCTS SUBJECT TO SECURITY INTEREST.

PRODUCT CODE The three-digit product code of each farm product covered by the EFS-1 must be entered in the Product Code column. The table of product codes appears below.

PRODUCT NAME The product name may be entered for the convenience of the filing party. Entry in this space is optional.

CROP YEAR No entry is required if all crop years of the farm product are covered by the EFS-1. If fewer than all crop years are covered, the last two digits of each covered crop year must be entered.

COUNTY CODE The two-digit county code for each county in which the particular farm product is produced must be entered in the County Code column. The table of county codes appears below.

PRODUCT DESCRIPTION: If not all of the product of the debtor is covered by the security interest then insert amount covered. For example if security interest is on 10,000 bushels of corn insert 10,000 bu.

WHO MUST SIGN: Each debtor named and the secured party. A corporation must sign by an authorized officer. A partnership must sign by a general partner.

WHERE TO FILE. File with the County Clerk where the Debtor resides. If the Debtor is a non-resident of Nebraska this statement is to be filed with the County Clerk in any county in which any of the farm products are used or produced.

File the white and canary copies with the County Clerk, retain pink copy, and give Debtor goldenrod copy.

ATTACHMENTS: If more space is required for additional debtors (Block 1-5) or products (Block 7) write "Attachment" in Block 5 for additional debtors and "Attachment" on last line of Block 7 for additional products and attach as an attachment on EFS-1 with the word "ATTACHMENT" printed at the top. The fee for each attachment is 50¢.

PRODUCT CODE TABLE

101 Corn	201 Cattle & Calves	301 Apples
102 Wheat	202 Hogs	302 Artichokes
103 Sorghum Grain	203 Sheep & Lambs	303 Asparagus
104 Soybeans	204 Horses	304 Cantaloupe
105 Oats	205 Chickens	305 Carrots
106 Barley	206 Turkeys	306 Cucumbers
107 Rye	207 Fish	307 Grapes
108 Dry Beans	209 Eggs	308 Honey Dew Melon
109 Popcorn	210 Honey	309 Muskmelon
110 Flax Seed	211 Milk	310 Onions
111 Potatoes	212 Wool	311 Pumpkins
112 Sugar Beets	213 Bees	312 Raspberries
113 Sunflower Seeds		313 Squash
114 Triticale		314 Strawberries
115 Vetch		315 Sweet Corn
116 Seed Crops		316 Tomatoes
117 Silage		317 Trees
118 Hay		318 Walnuts
		319 Watermelon

COUNTY CODE TABLE

01 Douglas	20 Cass	39 Cheyenne	58 Nance	77 Garden
02 Lancaster	21 Scotts Bluff	40 Pierce	59 Sarpy	78 Deuel
03 Gage	22 Saline	41 Polk	60 Frontier	79 Hayes
04 Custer	23 Boone	42 Nuckolls	61 Sheridan	80 Sioux
05 Dodge	24 Cuming	43 Colfax	62 Greeley	81 Rock
06 Saunders	25 Butler	44 Nemaha	63 Boyd	82 Keya Paha
07 Madison	26 Antelope	45 Webster	64 Morrill	83 Garfield
08 Hall	27 Wayne	46 Merrick	65 Box Butte	84 Wheeler
09 Buffalo	28 Hamilton	47 Valley	66 Cherry	85 Banner
10 Platte	29 Washington	48 Red Willow	67 Hitchcock	86 Blaine
11 Otoe	30 Clay	49 Howard	68 Keith	87 Logan
12 Knox	31 Burt	50 Franklin	69 Dawes	88 Loup
13 Cedar	32 Thayer	51 Harlan	70 Dakota	89 Thomas
14 Adams	33 Jefferson	52 Kearney	71 Kimball	90 McPherson
15 Lincoln	34 Fillmore	53 Stanton	72 Chase	91 Arthur
16 Seward	35 Dixon	54 Pawnee	73 Gosper	92 Grant
17 York	36 Holt	55 Thurston	74 Perkins	93 Hooker
18 Dawson	37 Phelps	56 Sherman	75 Brown	
19 Richardson	38 Furnas	57 Johnson	76 Dundy	

MADAM CHAIRMAN:
MEMBERS OF THE COMMITTEE:
LADIES AND GENTLEMEN.

MY NAME IS JOHN MEANS. I'M CHAIRMAN OF THE BOARD OF THE CITIZENS STATE BANK AND TRUST COMPANY OF HIAWATHA AND ALSO CHAIRMAN OF THE BOARD OF THE 1ST STATE BANK OF ELWOOD. I AM A MEMBER OF THE STATE AFFAIRS COMMITTEE OF THE KANSAS BANKERS ASSOCIATION. IN ADDITION I HAVE PERSONAL INTERESTS IN GRAIN PRODUCTION AND CATTLE FEEDING. THE BANK AND SEVERAL OFFICERS AND DIRECTORS OF THE BANK BELONG TO THE KANSAS FARM BUREAU AND THE KANSAS LIVESTOCK ASSOCIATION HOWEVER MY REMARKS APPARENTLY DO NOT REPRESENT THE POSITION OF KFB OR KLA.

SHAKESPEARE ONCE SAID, "NEITHER A BORROWER NOR A LENDER BE." SHAKESPEARE MAY HAVE BEEN RIGHT.

THE CITIZENS STATE BANK OF HIAWATHA IS AN AG BANK. AGRICULTURAL LOANS NORMALLY REPRESENT 75 TO 80% OF OUR LOAN PORTFOLIO. WE HAVE TRADITIONALLY BEEN AMONG THE TOP 5 AG LENDERS OF KANSAS FOR MANY YEARS. I'M HERE TODAY TO TELL YOU SOME OF OUR EXPERIENCES WITH REFERENCE TO CLEAR TITLE AND PRENOTIFICATION ON THE SALES OF OUR GRAIN AND LIVESTOCK COLLATERAL. OUR BANK MAKES A PRACTICE OF PROPERLY FILING UCC-1'S AND DOING ALL OF THE OTHER REQUIREMENTS OF PRENOTIFICATION. UNDER THE UNIFORM COMMERCIAL CODE PRIOR TO CLEAR TITLE AND PRENOTIFICATION WE HAD A FEW CASES WHERE OUR BANK WAS NOT LISTED AS A JOINT PAYEE BUT UNDER THE LAW AT THAT TIME WE WERE ABLE TO RECOVER OUR LOSS FROM A NEGLIGENT BUYER.

PLEASE UNDERSTAND WE ARE PRUDENT LENDERS. WE PERFECT OUR COLLATERAL POSITION, GET PERTINENT FINANCIAL DATA AND MAKE QUARTERLY LIVESTOCK INSPECTIONS. WE HAD ONE SPECIFIC CASE WHERE OUR CUSTOMER DIVERTED FUNDS AND CRIMINAL CHARGES WERE FILED. HE WAS ACQUITTED BY THE JURY EVEN THOUGH HE ADMITTED TO THE MANY OFFENSES. OUR BANK LOST A SUBSTANTIAL AMOUNT OF MONEY AND YET HE WAS VINDICATED BY THE JURY AND THE BANKRUPTCY COURT. WE NOW HAVE A SIMILAR CASE UNDER THE PRESENT LAW OF CLEAR TITLE - PRENOTIFICATION WHEREIN OUR CUSTOMER - A HOG PRODUCER AND GRAIN FARMER SOLD \$407,000 OF SECURED HOGS. \$257,000 OF THOSE HOGS WERE SOLD OFF LIST AND THEREFORE WE NEVER SAW THE MONEY. DURING THE TIME PERIOD THOSE SALES WERE MADE WE DID EVERYTHING WE POSSIBLY COULD TO PROTECT THE BANK AGAINST THIS HAPPENING BUT THIS IS IMPOSSIBLE UNDER THE PRESENT LAW. HE IS NOW IN CHAPTER

AG. § 5B
2-22-90
ATTACHMENT II

11 BANKRUPTCY AND WE HAVE NO RECOURSE BUT TO PURSUE ANY COLLATERAL REMAINING UNDER TERMS PRESCRIBED BY THE BANKRUPTCY COURT.

THESE EXAMPLES SHOULD BE ENOUGH EVIDENCE TO MAKE IT CLEAR THAT PRESENT LAW DOES NOT PROVIDE SUFFICIENT PROTECTION TO KANSAS LENDERS WHO SUPPORT OUR AGRICULTURAL PRODUCTION AND KANSAS ECONOMY SO WELL. THOSE HURT THE WORST BY OUR PRESENT LAW ARE OUR YOUNG FARMERS TRYING TO GET A START AS FINANCING FOR CROPS AND LIVESTOCK JUST ISN'T AVAILABLE TO MANY OF THEM NOW. HB 2785 WILL ALLEVIATE THAT PROBLEM. IF GRAIN AND LIVESTOCK ARE A FARMERS "INVENTORY", A BORROWER INTENT ON DEFRAUDING A LENDER CAN LOAD UP HIS COLLATERAL, TRUCK IT TO AN UNSUSPECTING BUYER, AND PASS CLEAR TITLE WITHOUT DELIVERING THE PROCEEDS TO THE LENDER. THIS IS UNIQUE TO AGRICULTURAL FINANCING. AT LEAST LENDERS TO WHOLESALE AND RETAIL CUSTOMERS ARE PROTECTED BY THE BULK SALES ACT.

WE'VE BEEN DOING EVERYTHING WE CAN ACCORDING TO LAW AND IT JUST DOESN'T WORK BUT, THERE IS A BETTER WAY. HB 2785 WHICH I UNDERSTAND IS COPIED AFTER NEBRASKA LAW WILL PROVIDE THE NECESSARY PROTECTION TO ALLOW KANSAS AGRICULTURAL CREDIT TO BE MORE READILY AVAILABLE AT A FAIR COST TO THE PRODUCERS.

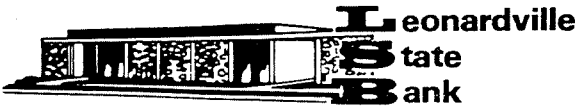
KANSAS LAW PROVIDES FOR PROPER PROTECTION FOR SECURED LENDERS ON REAL ESTATE, MOTOR VEHICLES, MACHINERY AND EQUIPMENT. WHY NOT FOR CROP AND LIVESTOCK LENDERS?

THE NEBRASKA LAW IS VERY SIMPLE AND VERY WORKABLE. WITH CENTRAL FILING, A QUARTERLY LIST OF PRODUCERS AND THEIR LENDERS IS AVAILABLE ON MICRO FICHE FOR BUYERS. THE BUYER THEN HAS THE NECESSARY INFORMATION TO PROPERLY PROTECT THE BUYER AND THE LENDER WITH NO DETRIMENT TO THE SELLER. YES - THERE IS A FAIR AND EQUITABLE WAY TO CORRECT THIS PROBLEM TO THE SATISFACTION OF ALL CONCERNED.

HB 2785 IS A "MUST" IF THE LEGISLATURE IS TO ACT IN FAIRNESS TO THE NEEDS OF AGRICULTURAL LENDERS. IF YOU SEE A TURTLE ON A FENCE POST -- YOU CAN BE SURE THAT SOMEONE PUT IT THERE. WITH CLEAR TITLE/PRENOTIFICATION KANSAS BANKERS HAVE BEEN PLACED ON A FENCE POST -- AND LIKE THE TURTLE WE CAN'T DEFEND OURSELVES. IT IS NOW UP TO YOU.

I'D BE HAPPY TO ANSWER ANY QUESTIONS YOU HAVE OR MAKE ANY CLARIFICATIONS YOU NEED.

I THANK YOU FOR YOUR TIME AND YOUR INTEREST IN KANSAS AGRICULTURE.



Leonardville, Kansas 66449
Phone (913) 293-5221

February 20, 1990

To Committee Members on Central Filing System

The Leonardville State Bank urges the committee members to vote "yes" on HB 2785, establishing a system for effective financing statements. The Leonardville State Bank has lost more than \$350,000 in loans to banks*who told our customers if they moved their loans, they would not pre-notify. The LSB, in an effort to secure its loans, protect deposit money, and comply with the law has insisted on pre-notifying grain and livestock companies. This has resulted in bad feelings between borrower and the bank, as the borrower does not see it is not the bank, but the grain and livestock companies who resist central filing, who is to blame.

Because the Leonardville State Bank is a small bank (about 6,500,000) with a low loan portfolio due to recent hard losses in the ag sector, and because we wish to retain our national rating as a safe and sound bank, we have continued to pre-notify. Our lost loans represent 32% of our loan portfolio!

Obviously we cannot continue to lose loans, pay the increased costs of pre-notification (approximately \$10.00 per customer)* and serve the ag needs of the area. A central filing system as established in Nebraska has worked well. We cannot imagine why the KLA and other groups continue to oppose it, putting the burden on the very banks who help bring them customers by financing livestock debt.

We do not wish to forego our interest in agriculture and its products, but it is going to mean we don't finance livestock and/or grain loans if relief is not available!

Sincerely,

Shirley R. Sikes, Executive Vice-President

* weaker banks - those even ready to fail -
+ \$480/yr. at least

Ag. & SB
2-22-90
ATTACHMENT III

SECURITY AGREEMENT SUPPLEMENT (Farm Products)

Principal	Transaction Date	Loan No.	Officer	Initials
	10-26-1989	0931667	KC	

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.

Borrower: [REDACTED]
P. O. Box 261
Garden City, KS 67848

Lender: Fidelity State Bank
P.O. Box F
215 North Main Street
Garden City, KS 67848

SUPPLEMENT. [REDACTED] ("Borrower") and Fidelity State Bank ("Lender") have entered into a written security agreement(s) dated OCTOBER 26, 1989 (the "Security Agreement"), of which this Supplement is a part. In addition to the terms and conditions set forth in the Security Agreement, the parties agree as follows:

BORROWER INFORMATION.

Name: [REDACTED] **SSN:** [REDACTED]
Address: P. O. Box 261
Garden City, KS 67848

FARM PRODUCTS. In addition to any security interests granted in any other collateral, Borrower hereby grants to Lender a security interest in all of the following described property (the "Farm Products"):

FARM PRODUCT	AMOUNT	COUNTY OR PARISH	CROP YEAR(S)
Cattle	All	FINNEY	1989 & 1990

LOCATION. The following is a reasonable description of the property for each county or parish listed above:

All cattle on feed

BUYERS, AGENTS, COMMISSION MERCHANTS. The following is a list of those buyers, selling agents, and commission merchants to whom Borrower may sell, consign, or transfer the Farm Products as designated:

NAME	ADDRESS	FARM PRODUCT(S)
Excel Packing Co., Inc. Danlae, Credit Department	P.O. Box 2519 Wichita, KS 67201	Cattle
Hy Plains Dressed Beef Attn: Cynthia	P.O. Box 539 Dodge City, KS 67801	Cattle
Iowa Beef Processors, Inc.	P.O. Box 516 Mall No. 7 Dakota City, NE 68731	Cattle
Monfort of Colorado Attn: Larry Knoe	P.O. Box G Greeley, CO 80631	Cattle
National Beef Packing Co. Attn: Vic Manke	P.O. Box 978 Liberal, KS 67901	Cattle

SALE OF FARM PRODUCTS. Borrower agrees with respect to the Farm Products:

Sales. Borrower represents and promises to Lender not to sell, consign, or transfer any of the Farm Products except for sales, consignments, and transfers to the buyers, agents, and commission merchants listed above. In addition, Borrower agrees to sell, consign, or transfer to such persons only the Farm Product(s) specifically identified for each such buyer, agent, or commission merchant. Borrower further represents and promises to notify and deliver to Lender the names and addresses of any additional persons to whom or through whom the Farm Products may be sold, consigned, or transferred. Such notification shall be in writing and shall be received by Lender not less than seven (7) days prior to any such sale, consignment, or transfer of the Farm Products.

Federal Penalty. If the Farm Products are produced in a state that does not have an effective central filing system (as defined in the Food Security Act of 1985), Borrower acknowledges that if the Farm Products are sold to a buyer or through a commission merchant or selling agent not listed above or on any subsequent notice as provided above, and if Borrower does not account to Lender for the proceeds of such sale within ten (10) days after the sale, then UNDER FEDERAL LAW, BORROWER SHALL BE SUBJECT TO A FINE OF \$5,000 OR 15% OF THE VALUE OR BENEFIT RECEIVED FOR THE FARM PRODUCT(S), WHICHEVER IS GREATER.

PROCEEDS. Unless otherwise required by Lender, at the time any of the Farm Products are sold, all proceeds of sale shall be obtained on a timely basis and in a form jointly payable to Borrower and Lender. Such proceeds shall be delivered to Lender immediately. All chattel paper, contracts, and other evidences of obligations, whether issued by a warehouse marketing group or otherwise, and all accounts receivable and other noncash proceeds shall immediately be endorsed, assigned, and delivered to Lender as security for the indebtedness secured by the Farm Products. All of the proceeds of any such disposition, when and if received by Lender, may at Lender's option be applied to the indebtedness secured by the Farm Products. Lender may collect the proceeds of any such accounts, including any noncash proceeds of sale, and at its discretion sell or dispose of any or all of the proceeds of the sale without notice to Borrower.

III - 2

**SECURITY AGREEMENT SUPPLEMENT
(Continued)**

FAILURE TO COMPLY. If Borrower fails to comply with or perform any term, condition, covenant, or other obligation of this Supplement or of any other agreement with Lender, then Borrower shall be in default and all sales of Farm Products will then be unauthorized. Any other sales or dispositions to which Lender subsequently gives written consent shall also be governed by the terms of this Supplement and the Security Agreement. This default provision is in addition to the provisions for default set forth in the Security Agreement. Except as modified by this Supplement, all terms and conditions of the Security Agreement (and all other agreements between Borrower and Lender) shall remain in full force and effect.

ACKNOWLEDGMENT AND AGREEMENT. Each Borrower acknowledges it has read this Supplement and each Borrower agrees to its terms. In addition, Borrower represents and warrants to Lender that all of the information set forth in this supplement is true and correct. If more than one Borrower signs below, the obligations of Borrower are joint and several. Borrower consents to Lender disclosing its security interest in the Farm Products, including Borrower's Social Security Number. Borrower agrees to make, execute and deliver to Lender, or any other person designated by Lender, all effective financing statements required pursuant to any central filing system, together with all other documents and notices Lender may require to perfect and protect its security interests in the Farm Products. This Supplement is dated October 26, 1989.

BORROWER:

X _____
[Redacted Signature]

X _____
[Redacted Signature]

AC SB
2-22-90
ATTACHMENT IV

NOTICE TO BUYER OF SECURITY INTEREST IN FARM PRODUCTS

To: Buyer

Excel Packing Co., Inc.
Denise, Credit Department
P.O. Box 2519
Wichita, KS 67201

Secured Party (Lender)

Fidelity State Bank
P.O. Box F
215 North Main Street
Gardon City, KS 67846

SECURITY INTEREST. You are hereby notified pursuant to the Federal Food Security Act of 1985 that Fidelity State Bank (the "Secured Party") holds a security interest in the Farm Products, as described below. The name and address of the Secured Party are shown above. This Notice is effective for a period of one year from the date of your receipt of this Notice.

DEBTOR INFORMATION. The name, address and social security number of the person indebted to the Secured Party are:

Name: [Redacted] SSN: [Redacted]
Address: P. O. Box 287
Gardon City, KS 67846

FARM PRODUCTS. The Secured Party holds a security interest in all of the following described property (the "Farm Products"):

Farm Product	Name & Address of Secured Party	Name & Address of Debtor	Amount	Crop Year(s)	County or Parish	Description of Property
Cattle	See Above	See Above	All	1989 & 1990	FINNEY	See Below

DESCRIPTION OF PROPERTY. The following is a reasonable description of the property:

All cattle on feed

PAYMENT OBLIGATIONS. The following payment obligations are applicable to this Notice as conditions for waiver or release of the security interest in the Farm Products: All proceeds are to be paid jointly to Debtor and Secured Party. Proceeds are to be delivered or mailed to Secured Party.

ACKNOWLEDGEMENT. Please acknowledge receipt of this Notice by signing below on the enclosed copy of this notice and returning the copy to the Secured Party at the address shown above. This notice is dated October 26, 1989.

Secured Party: Fidelity State Bank

By _____
Authorized Officer

ACKNOWLEDGEMENT

The undersigned acknowledges receipt of this Notice to Buyer on _____, 19__.

Buyer: Excel Packing Co., Inc., Denise, Credit Department

By _____

IV-2

CENTRAL NOTIFICATION SYSTEM

QUESTION AND ANSWER SHEET

Question: How is the central notification system (CNS) different from the existing central filing system?

Answer: The existing central filing system is for the filing of statements permitted by Article 9 of the Uniform Commercial Code. The CNS system serves an entirely different purpose. It establishes a system to give notice of security interests in farm products only for purposes of complying with Section 1324 of the Food Security Act of 1985.

Question: What is an effective financing statement?

Answer: An effective financing statement (EFS) is a statement signed by a secured party and a debtor giving notice of a security interest in Kansas farm products.

Question: Can a UCC-1 be amended so as to constitute an EFS?

Answer: No. The requirements of an EFS are substantially different from a UCC-1. The Secretary of State will develop a specific EFS form. The existing central filing system will continue to be used for the filing of UCC-1 statements.

Question: What information is included on an EFS?

Answer: An EFS contains the following information: The name and address of the secured party; the name and address of the debtor or debtors; the social security number(s) of the debtor(s); or, in the case of a debtor doing business other than as an individual, the IRS taxpayer identification number of such debtor(s); and a description of the farm product subject to the security interest. The description includes: The amount of the product where applicable; the Kansas county where the product is or will be produced; and a crop year. Further details are included if needed to distinguish the particular farm product from other such products owned by the same person but not subject to the particular security interest.

Question: Where is an EFS filed?

Answer: An EFS is filed with the Secretary of State. There is no local filing.

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Question: For how long is an EFS filing effective?

Answer: An EFS filing is effective for a period of five (5) years from the date of filing. The effectiveness of the EFS may be extended only by the filing of a continuation statement within the six (6) month period prior to the five (5) year anniversary date of the effectiveness of the EFS. An EFS may be terminated prior to the expiration of the five (5) year period by the filing of a notice of termination.

Question: Can an EFS be amended?

Answer: Yes. An EFS is amended by filing an amendment, properly signed, identifying the EFS to be amended, and stating how the EFS is amended.

Question: Who must sign an amendment?

Answer: An amendment must be signed by the creditor and by the debtor or debtors, in the same manner as an EFS.

Question: Does an amendment extend the five year effectiveness of the EFS?

Answer: No.

Question: Who must sign an EFS?

Answer: An EFS must be signed by the creditor and by the debtor or debtors who own a farm product and have subjected it to a security interest. A debtor, as so defined, may include persons who do not owe a debt to the secured party, but have pledged farm products to secure the debt of another.

Question: Can creditors file an EFS in Kansas with respect to crops produced in another state?

Answer: The Kansas CNS system is applicable only with respect to farm products produced in Kansas. Creditors cannot file an EFS in Kansas with respect to crops produced in another state, even if those crops are subsequently located in Kansas for purposes such as sale. It is the state of production of the farm products, rather than the state in which the products are located, that determines whether a particular state's CNS system should be utilized. If a Kansas creditor has a security interest in products produced in another state, that creditor should file an EFS in the state of production if such state has the CNS, or rely on pre-notification if the state does not have a CNS.

Question: Can creditors file an EFS in Kansas with respect to cattle born or acquired in another state?

Answer: Creditors should file an EFS in Kansas with regard to cattle which will be "produced" in Kansas. However, if cattle are brought into Kansas for purpose of sale rather than production, an EFS should not be filed in Kansas.

Question: May more than one farm product be listed on the single EFS?

Answer: Yes. With respect to a given debtor or group of debtors, an EFS may include more than one farm product.

Question: How are farm products described?

Answer: Farm products must be described specifically as one of the categories enumerated in Section 3(g). The Secretary of State by regulation may designate additional farm products.

Question: What if a particular farm product subject to a security interest is not included in the list?

Answer: The CNS is applicable only to the enumerated farm products in Section 3(g). If the product is not enumerated, an EFS cannot be filed. In such cases, prenotification is the only manner of compliance with the federal act.

Question: What is the master list?

Answer: The master list is a compilation of all EFS's filed with the Secretary of State. It is organized according to farm product and arranged within each product in alphabetical order of the last name of the individual debtor(s), in numerical order according to the social security or taxpayer identification number(s), geographically by county of production, and by crop year. The list contains all the information included on the EFS statements.

Question: To whom are copies of portions of the master list mailed?

Answer: Buyers of farm products, commission merchants, and selling agents may register with the Secretary of State to receive copies of portions of the master list. When registering, such persons indicate the farm products in which they have an interest, limited by county or crop year if desired.

Question: What is the organization of the portions of the master list mailed to registrants?

Answer: The registrant, when filing with the Secretary of State, indicates whether the list should be arranged in alphabetical order by debtor

or numerically by the debtor's social security number or IRS taxpayer number.

Question: What is the form of the portions of the master list mailed to registrants?

Answer: The portions of the list will be in printed form, unless the registrant requests a different form as permitted by regulations of the Secretary of State. It is anticipated that the Secretary of State may, by regulation, provide for the mailing of portions of the master list on microfiche, diskettes, or other forms.

Question: How often will registrants receive copies of portions of the master list?

Answer: Portions of the master list will be mailed to registrants quarterly, commencing on December 15, 1990. Registrants will be included in an upcoming quarterly mailing if registered on or before the first day of the month of mailing. If registration is received more than fifteen (15) days prior to the next scheduled quarterly mailing and the registrant did not receive a quarterly list covering items of interest in the last regularly scheduled mailing, an interim list will be mailed to the registrant.

Question: For how long is registration effective?

Answer: Registration is effective for one (1) year.

Question: Can a registration be amended?

Answer: Yes. An amendment may be filed with the Secretary of State. The filing of an amendment, however, does not extend the effectiveness of the registration.

Question: What constitutes receipt of the master list or portions thereof by the registered buyer?

Answer: Mailed portions of the master list are presumed to have been received by the registrant five (5) days after the date of mailing by the Secretary of State. Receipt means actual receipt or presumed receipt, whichever is earlier.

Question: May non-registrants access the system?

Answer: Persons who have not registered may request confirmation of the existence of an EFS from the Secretary of State. Requests will be accepted at the office of the Secretary of State during regular business hours and between the hours of 8:00 a.m. and 5:00 p.m., on Saturday, except those Saturdays which immediately follow an official

state holiday. Oral replies will be available not later than the business day following the day on which the inquiry is received, at or before the time of day when it was received. Written confirmation shall be given by the Secretary of State not later than two full business days following the availability of oral reply. Portions of the master list will be mailed only to registrants.

Question: May registrants request oral confirmations?

Answer: Yes.

Question: What is a termination statement?

Answer: A termination statement is a notice signed by the creditor identifying the EFS to be terminated, and stating that the EFS is to be removed from the master list.

Question: When is a termination statement required?

Answer: Whenever there is no outstanding secured obligation and no commitment to make advances, the secured party on written demand by the debtor must file a notice of termination of an EFS with the Secretary of State.

Question: How will the CNS be funded?

Answer: The CNS shall be fully funded by user fees. The fees called for in the Act will be established by the Secretary of State through regulations.

Question: When will the CNS be operational?

Answer: The Kansas Act establishing the CNS will be effective on November 1, 1987. EFS's, registrations, and other filings will be accepted by the Secretary of State after that date. The first quarterly list will be mailed on December 15, 1990.

Question: When will buyers of farm products covered by the Act take subject to a security interest?

Answer: The federal law, Section 1324 of the Food Security Act of 1985, P.L. 99-198, not state law, will determine to what extent buyers of farm products take free of security interest. The CNS will become effective for purposes of determining which buyers take free of security interests under the federal act after December 20, 1987, five (5) days after the first quarterly lists have been mailed. Generally, after establishment of the CNS, if a secured party has filed an EFS, a buyer of that product will take free of the security interest where the buyer has registered under the Act and has not received notice of the EFS.

Question: Why is there a requirement of certification by the Secretary of Agriculture?

Answer: The Act for central filing of EFS's is not effective under the federal law unless the state legislation is approved by the Secretary of Agriculture. The department has acted promptly and reasonably when reviewing legislation from other states.