

Approved: 1/22/98
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 3:30 p.m. on January 15, 1998 in Room 313--S of the Capitol.

All members were present except: Representative Kline (excused)
Representative Powell (excused)
Representative Presta (excused)
Representative Pauls (excused)
Representative Ruff (excused)
Representative Adkins (excused)
Representative Krehbeil (excused)
Representative Swenson (excused)
Representative Wilk (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee: Ron Smith, Kansas Bar Association
Martha Neu Smith, Kansas Manufactured Housing Assoc.

Others attending: See attached list

The Chair called the meeting to order and requested that the Committee members review the January 14, 1998 meeting minutes.

Representative Mayans made a motion, second by Representative Shriver to approve the minutes of January 14, 1998. The motion carries.

Bill Introductions:

Representative Haley requested the introduction of a bill. (Attachment 1)

A motion was made by Representative Haley to introduce a bill that would allow any heir, devisee or legatee of the decedent to become the legal owner of real property of the decedent upon meeting specified conditions contained in the bill. Representative Garner seconded the motion. The motion carries.

Mr. Ron Smith, Kansas Bar Association, requested the introduction of two bills. The conferee stated that the first bill would add the 1997 amendments to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) to Kansas' current law, the Uniform Child Custody Jurisdiction Act. The conferee stated that the bill requested will address interstate enforcement of child support orders. (Attachment 2)

The conferee stated that the second bill is new legislation to make cleanup amendments to the confidentiality statutes regarding mediation and mediators. (Attachment 2)

Representative Haley made a motion, second by Representative Garner, to introduce both bills requested by the Kansas Bar Association. The motion carries.

Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association, requested the introduction of a bill that would address the current situation where valueless mobile and manufactured homes are being abandoned in mobile home parks. (Attachment 3)

Representative Howell made a motion, second by Representative Kirk, to introduce the bill requested by the Kansas Manufactured Housing Association. The motion carries.

The Chair adjourned the meeting at 4:00 p.m.

The next meeting is scheduled for January 21, 1998.

HOUSE JUDICIARY COMMITTEE GUEST LIST

DATE: 1/15/98

NAME	REPRESENTING
Madeline Jew Smith	KNDHA
Susan Andersen	Hein + Weir
Wicklynn Blease	Budget
Shayla Johnston	KTLA
PHIL STEVENSON	INTERN WITH REP. GARNER
Kathy Porter	OJA
Jesse Jones	KSC
KEITH R. LANDIS	CHRISTIAN SCIENCE Comm. EN PUBLICATION FOR KS
Diane M. Seabell	KTLL
Ron Smith	KS Bar #3802
B. Fullbright	ACLU

PROPOSED BILL NO. _____

By

AN ACT concerning the transfer of real property upon the death of the owner; relating to an heir who files a notification of interest in title.

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

Section 1. (a) When the tax appraised value of real property owned by a decedent is not greater than \$15,000 and the estate is not subject to homestead or allowances pursuant to K.S.A. 59-401 et seq., and amendments thereto, or such homestead or allowances are waived, any heir, devisee or legatee of the decedent may file a notification of interest in title in the office of the register of deeds in the county where such real property is located. Such notification of interest in title shall be in substantially the form set out in subsection (e) and shall state:

(1) The decedent's name, the date of death and a certified copy of decedent's death certificate;

(2) the address and legal description of such real property owned by the decedent;

(3) the name and current address of the heir filing the notification;

(4) the relationship between the decedent and the heir filing notification;

(5) that the taxes on such real property are current and not delinquent;

(6) that such real property is free of liens and encumbrances; and

(7) that the heir filing notification of interest in title is filing a claim to be the vested owner of such real property.

(b) If after three years from the date of the filing of the notification of interest in title, no other heir, devisee or legatee has petitioned the court in a probate proceeding pursuant

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Attachment 1

to the Kansas probate code, the heir who filed the notification of interest in title shall be the legal owner of such real property.

(c) If at any time during the three-year period, another heir, devisee or legatee petitions the court to establish a probate proceeding, and if during such proceeding the court establishes a determination of descent that allows another party to receive a share of such real property, such other party shall be liable to the heir filing the notification of interest in title for any taxes paid on such real property and reasonable maintenance and upkeep costs documented and paid by such heir.

(d) The provisions of this section shall only apply to real property located in Wyandotte county.

(e) The notification of interest in title shall be in substantially the following form:

STATE OF KANSAS)
) ss:
COUNTY OF _____)

NOTIFICATION OF INTEREST IN TITLE

I, _____ (heir) _____, of lawful age, being first duly sworn state:

(1) I have attached hereto a certified copy of decedent's death certificate which states decedent's name and date of death as: _____

Name

Date of death

(2) The address and legal description of real property owned by decedent for which this notification is filed:

(3) The name and current address of the heir filing the notification:

(4) The relationship between the decedent and the heir filing notification:

(5) The taxes on such real property are not delinquent and are currently being paid by the heir:

(6) I am filing notification of interest in title and am filing a claim to be the vested owner of such real property.

(heir)

STATE OF KANSAS)

)

COUNTY OF SHAWNEE)

The foregoing instrument was acknowledged before me this _____ day of _____, 19____ by _____.

SUBSCRIBED AND SWORN to before me on _____.

Notary Public

My Appointment Expires:

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.



**KANSAS BAR
ASSOCIATION**

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David J. Waxse, President-elect
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Kerry McQueen, Secretary-Treasurer
Dale L. Somers, Past President

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Assistant Executive Director
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Administrative Director
Vicki Bigham,
Communications Director
Ronald Smith,
General Counsel
Art Thompson,
Public Services Director

#2
January 12, 1998

Hon. Timothy J. Carmody
Chair, House Judiciary Committee
115-S, Statehouse
Topeka, KS 66612

Dear Rep. Carmody,

On behalf of the Kansas Bar Association, we would like to request two new bill introductions.

Since one or both of the Uniform Laws Commission bills from last year, SB 8 and SB 9, are assigned to the House Judiciary Committee, we would ask that this committee introduce another such bill, the 1997 amendments to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The UCCJEA is a recent change from the Uniform Laws Commission to our current law, the Uniform Child Custody Jurisdiction Act. It is a large bill but I am advised by the ULC and KBA members who have read the bill that the changes are minor in substance and scope and speak to interstate enforcement of child support orders. It would repeal all of Chapter 38, article 13 of our code and replace it with the provisions in the UCCJEA. Jill Wolters has a copy of the act.

The second bill is new legislation to make cleanup amendments to the confidentiality statutes regarding mediation and mediators. These statutes are scattered throughout the code, but we've grouped them together in the attached document. When the state mediation statute was introduced by Rep. Chronister several years ago, we inadvertently left in many of the statutes the language allowing a court *on its own* to haul a mediator into court as a witness against one or both parties. This result was never intended by the original act. What was intended was that the *legislature* would control, through specific statutes, when a mediator could be compelled to disclose confidential information in another forum, such as a court. This would be done through specific statutes. This bill, while striking existing language, looks like it is making substantive change, but it is not. It is simply conforming the statutes to original intent, which was that statutes – not individual court whim – would control instances when testimony is required. When we have hearings on the bill, we'd be glad to speak further to these questions.

Thank you.

Best regards,

Ron Smith
General Counsel

cc: Jack Brand
Whitney Damron

enc/

House Judiciary
1-15-98
Attachment 2

**KBA Proposal
Amending Mediation Statutes**

KSA 75-4332. Memoranda of agreement; procedure in case of impasse; fact-finding board; hearing; costs; confidentiality.

(a) Public employers may include in memoranda of agreement concluded with recognized employee organizations a provision setting forth the procedures to be invoked in the event of disputes which reach an impasse in the course of meet and confer proceedings.

Such memorandum shall define conditions under which an impasse exists, and if the employer is bound by the budget law set forth in K.S.A.79-2925 et seq. and amendments thereto, the memorandum shall provide that an impasse is deemed to exist if the parties fail to achieve agreement at least 14 days prior to budget submission date.

(b) In the absence of such memorandum of procedures, or upon the failure of such procedures resulting in an impasse, either party may request the assistance of the public employee relations board, or the board may render such assistance on its own motion.

In either event, if the board determines an impasse exists in meet and confer proceedings between a public employer and a recognized employee organization, the board shall aid the parties in effecting a voluntary resolution of the dispute, and request the appointment of a mediator or mediators, representative of the public, from a list of qualified persons maintained by the secretary of human resources, and such appointment of a mediator or mediators shall be made forthwith by the secretary.

(c) All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A.5-501 et seq. and amendments thereto shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

(d) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to establish a defense for the mediator or staff of an approved program conducting the proceeding in the case of an action against the mediator or staff of an approved program that is filed by a party to the mediation;

(2) any information that the mediator is required to report under K.S.A.38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud; or

(4) any information that the mediator is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of the court.~~

(e) If the impasse persists seven days after the mediators have been appointed, the board shall request the appointment of a fact-finding board of not more than three members, each representative of the public, from a list of qualified persons maintained by the secretary of human resources. The fact-finding board shall conduct a hearing, may administer oaths, and may request the board to issue subpoenas. It shall make written findings of facts and recommendations for resolution of the dispute and, not later than 21 days from the day of appointment, shall serve such findings on the public employer and the recognized employee organization. The board may make this report public seven days after it is submitted to the parties. If the dispute continues 14 days after the report is submitted to the parties, the report shall be made public.

(f) If the parties have not resolved the impasse by the end of a forty-day period, commencing with the appointment of the fact-finding board, or by a date not later than 14 days prior to the budget submission date, whichever date occurs first: (1) The representative of the public employer involved shall submit to the governing body of the public employer involved a copy of the findings of fact and recommendations of the fact-finding board, together with the representative's recommendations for settling the dispute; (2) the employee organization may submit to such governing body its recommendations for settling the dispute; (3) the governing body or a duly authorized committee thereof shall forthwith conduct a hearing at which the parties shall be required to explain their positions; and (4) thereafter, the governing body shall take such action as it deems to be in the public interest, including the interest of the public employees involved. The provisions of this subsection shall not be applicable to the state and its agencies and employees.

(g) The cost for the mediation and fact-finding services provided by the secretary of human resources upon request of the board shall be borne by the secretary of human resources. All other costs, including that of a neutral arbitrator, shall be borne equally by the parties to a dispute.

KSA 5-512. Confidentiality of proceedings.

(a) All verbal or written information transmitted between any party to a dispute and a neutral person conducting a proceeding under the dispute resolution act or the staff of an approved program shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A neutral person conducting a proceeding under the dispute resolution act shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorized to claim the privilege.

(b) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to establish a defense for the neutral person or staff of an approved program conducting the proceeding in the case of an action against the neutral person or staff of an approved program that is filed by a party to the proceeding;

(2) any information that the neutral person conducting the proceeding is required to report under K.S.A.38-1522, and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud; or

(4) any information that the neutral person conducting the proceeding is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of a court.~~

KSA 23-605. Confidentiality.

(a) A mediator appointed under K.S.A.23-602 and amendments thereto shall treat all verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A.5-501 et seq. and amendments thereto as confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party

authorizes to claim the privilege. A neutral person conducting the proceeding shall not be subject to process requiring the disclosure of any matter discussed within the proceedings unless all parties consent to a waiver.

(b) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to allow investigation of or action for ethical violations against the neutral person conducting the proceeding or for the defense of the neutral person or staff of an approved program conducting the proceeding in an action against the neutral person or staff of an approved program if the action is filed by a party to the proceeding;

(2) any information that the mediator is required to report under K.S.A.38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud;

(4) any information that the mediator is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of the court;~~ or

(5) a report to the court of threats of physical violence made by a party during the proceeding.

KSA 44-817. Mediators; appointment; functions; compensation; confidentiality.

(a) The secretary of human resources shall have power to appoint any competent, impartial, disinterested person to act as mediator in any labor dispute either upon the secretary's own initiative or upon the request of one of the parties to the dispute.

It shall be the function of such mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the secretary of human resources shall have any power of compulsion in mediation proceedings. The secretary of human resources shall provide necessary expenses for such mediators as may be appointed, under reasonable compensation not exceeding \$50 per day for each such mediator, and prescribe reasonable rules of procedure for such mediators.

(b) All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A.5-501 et seq. and amendments thereto shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver.

Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

(c) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to establish a defense for the mediator or staff of an approved program conducting the proceeding in the case of an action against the mediator or staff of an approved program that is filed by a party to the mediation;

(2) any information that the mediator is required to report under K.S.A.38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud; or

(4) any information that the mediator is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of the court.~~

KSA 60-452a. Dispute resolution; confidentiality.

(a) All verbal or written information transmitted between any party to a dispute and a neutral person conducting the proceeding, or the staff of an approved program under K.S.A.5-501 et seq. and amendments thereto shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A neutral person shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

(b) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to establish a defense for the neutral person or staff of an approved program conducting the proceeding in the case of an action against the neutral person or staff of an approved program that is filed by a party to the mediation;

(2) any information that the neutral person is required to report under K.S.A.38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which

there was an expressed intent to commit such crime or fraud; or

(4) any information that the neutral person is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of the court.~~

KSA 72-5427. Mediation; request for appointment of fact-finding board; time limitations; memorandum describing issues and final position of parties; confidentiality.

(a) Upon finding that an impasse exists in professional negotiation or upon receipt of a joint notice of the existence of impasse filed by the parties under subsection (d) of K.S.A.72-5426 and amendments thereto, the secretary shall appoint a mediator to assist in resolving the impasse, from a list maintained by the secretary of qualified and impartial individuals who are representative of the public. To the extent practicable, the secretary shall utilize the services of the federal mediation and conciliation service for mediation under this section.

(b) The mediator shall meet with the parties or their representatives, or both, either jointly or separately, and shall take such other steps as appropriate in order to assist the parties to resolve the impasse and to proceed with professional negotiation.

(c) If either party determines, after the seven-day period immediately succeeding the appointment of the mediator, that mediation has failed to resolve the impasse, such party may within 10 days after the unsuccessful conclusion of mediation file a written request with the secretary to appoint a fact-finding board to assist in resolving the impasse and the secretary shall immediately notify the other party of the request. Within three days thereafter, each of the parties shall prepare and submit to the secretary a written memorandum containing a description of the issues upon which the impasse exists and shall include therein a specific description of the final position of the party on each issue.

(d) All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A.5-501 et seq. and amendments thereto shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness

from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

(e) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to establish a defense for the mediator or staff of an approved program conducting the proceeding in the case of an action against the mediator or staff of an approved program that is filed by a party to the mediation;

(2) any information that the mediator is required to report under K.S.A.38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud; or

(4) any information that the mediator is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of the court.~~

KSA 74-545. Farm assistance, counseling and training referral program; administration; personnel; eligible persons; included services and assistance; rural opportunity program; confidentiality of meetings and records; secretary authorized to negotiate contracts for services and receive grant moneys; notice of the FACTS program required; expiration date.

(a) The secretary of the state board of agriculture with the cooperation of the director of extension of Kansas state university shall coordinate a farm assistance, counseling and training referral program which shall include a rural opportunity program. The rural opportunity program will gather information and will inform rural communities, businesses, and potential entrepreneurs of available programs, resources, and strategies which they can use to develop themselves economically and create alternative or improved employment for farmers and rural residents. For the purposes of providing such assistance and program, the secretary shall utilize the services of the director and division of extension of Kansas state university, other state agencies, county extension personnel, municipal and community services organizations, private foundations, institutes, and personnel and private business and professional agencies or services available for such purpose. The secretary shall compile a directory of programs and services which may be utilized in providing the assistance contemplated by this act. Staff required by the secretary for the purposes of implementing this act shall be employed by the secretary with the approval of the director of extension and shall serve in the offices of the division of extension at Kansas state university. Personnel employed by the secretary for the purpose of implementing this act shall be employed as special project employees and shall be in the unclassified service under the Kansas civil service act. The personnel employed by the secretary for

this purpose and county extension personnel shall be utilized in: (1) Receiving requests for assistance; (2) determining the eligibility of persons requesting assistance; and (3) determining if such assistance can best be provided by staff or by referral to an appropriate public or private agency or party for direct assistance. Personnel receiving requests for assistance will provide where possible such assistance or refer the person requesting such assistance to a public or private agency or, when appropriate, to a person qualified to provide such assistance in the home community or county of the person requesting such assistance.

(b) Persons requesting farm assistance, counseling and training referral services shall be eligible to receive assistance pursuant to this act if they: (1) Are primarily engaged in the business of farming, ranching, agribusiness or other agriculture-related activities; and (2) will be unable to continue in such business or activity or be seriously handicapped in such continued operation without the assistance provided pursuant to this act.

(c) The assistance to be made available to eligible persons requesting farm assistance, counseling and training referral services by staff, by contract or by referral to appropriate persons or agencies shall include farm management, legal assistance, legal advice and referrals, financial planning, employment services, business planning, voluntary mediation and personal and family support counseling. The secretary may provide legal assistance through a contract for legal services with any private or corporate law firm.

(d) Meetings in which mediation assistance is provided through the voluntary mediation service authorized under subsection (c) shall be closed and shall not be subject to the provisions of K.S.A.75-4317 to 75-4320, inclusive, and amendments thereto. The record of information relating to the finances of individual borrowers and creditors created, collected and maintained by the mediation service shall not constitute a public record and shall not be open for inspection under the open records act. Mediation sessions shall be confidential and the secretary shall ensure that all lenders and borrowers of agricultural loans receive adequate notification of the mediation service.

(e) All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A.5-501 et seq. and amendments thereto shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any

action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

(f) The confidentiality and privilege requirements of this section shall not apply to:

(1) Information that is reasonably necessary to establish a defense for the mediator or staff of an approved program conducting the proceeding in the case of an action against the mediator or staff of an approved program that is filed by a party to the mediation;

(2) any information that the mediator is required to report under K.S.A.38-1522 and amendments thereto;

(3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud; or

(4) any information that the mediator is required to report or communicate under the specific provisions of any statute ~~or in order to comply with orders of the court.~~

(g) The secretary is hereby authorized to negotiate and enter into contracts for the performance of the powers, duties and functions of the program established under this section and under K.S.A.74-544 and amendments thereto. All such contracts shall be exempt from the competitive bid requirements of K.S.A.75-3739 and amendments thereto.

(h) The secretary is hereby authorized to receive grants, gifts or donations from the United States government, or its agencies, or any other source whatsoever for the purposes of the program established under this section and under K.S.A.74-544 and amendments thereto, and any moneys so received shall be deposited in the state treasury and credited to the FACTS gifts and contributions fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or a person designated by the secretary.

(i) A creditor of a farm borrower, when notifying a farm borrower of intent to accelerate or call such note or, in the event none of the above notices has occurred, before filing suit to foreclose on a deed of trust or mortgage on agricultural land, shall notify the borrower of the availability of the mediation service as contracted by the secretary, and shall prominently include on or with the notice the address and telephone number of such mediation service unless the borrower and creditor have previously been involved with each other in mediation through such mediation service. A copy of the notice, including names, addresses and phone numbers of creditor and borrower, shall be sent to the mediation service at the same time it is mailed to the borrower, if the borrower consents thereto in writing.

(j) The provisions of this act shall expire on September 30, 1996.

#3



214 SW 6th St., Suite 206
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 785-357-5256
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 kmha@cjnetworks.com

Bill Request for the House Judiciary Committee

Abandoned Mobile/Manufactured Home Bill

Kansas Manufactured Housing Association is proposing that a bill be introduced that would address the current situation where valueless mobile and manufactured homes are being abandoned in mobile home parks.

For a mobile home park owner to use this new law the following conditions must exist:

The home in question must meet current definition of "abandonment" K.S.A. 58-25,121.

Park owner must provide proper notice pursuant to K.S.A. 58-227.

The value of the home and other personal property is equal to or less than the reasonable cost of disposal plus all sums owing to the real property owner pertaining to the home, and a lien of record, other than a tax lien, does not exist against the home.

After those conditions are satisfied, the owner of a mobile home park may remove or cause to be removed from the park a valueless home and personal property associated with the home at any time following a determination of abandonment (K.S.A. 58-25,121) and after notice has been provided pursuant to K.S.A. 58-227. Within ten days of foreclosure by the mobile home park owner pursuant to K.S.A. 58-227(c), the mobile home park owner shall give written notice to the county treasurer of the county in which the mobile home park is located by affidavit which shall include a description of the valueless home, its owner or occupant, if known, date of removal and if applicable, the name and address of any third party to whom a new title should be issued. The mobile home park owner can allow a disinterested third party to remove the valueless home and personal property in a transaction in which the **mobile home park owner receives no consideration.**

This proposal uses current law but eliminates the time consuming process of a sheriff's sale. Our proposal still provides the owner of the mobile/manufactured home with proper notice and opportunity to claim their property during the foreclosure proceedings.

Martha Neu Smith, Executive Director
 Kansas Manufactured Housing Association

House Judiciary
 1-15-98
 Attachment 3

An act relating to mobile and manufactured homes; providing for the disposition of valueless mobile and manufactured homes.

New Section 1. For purposes of this act and unless the context otherwise requires:

- (a) "Home" means a mobile home or a manufactured home as defined in K.S.A. 58-4202, and amendments thereto.
- (b) "Mobile home park" means a mobile home park as defined in K.S.A. 58-25,103, and amendments thereto.
- (c) "Personal Property" includes personal property of the owner or other occupant of the home, which is located in the home, on the lot where the home is located, in the immediate vicinity of the home or lot, or in any storage area provided by the real property owner for use of the home owner or occupant.
- (d) "Valueless home" means a home located in a mobile home park including all other personal property, where all of the following conditions exist:
 - (1) The home has been abandoned as provided in K.S.A. 58-25,121, and amendments thereto, and the home has not been removed.
 - (2) A lien of record, other than a tax lien, does not exist against the home. A lien exists only if the real property owner receives notice of a lien or a lien has been filed in the state or county records on a date before the home is considered to be valueless.
 - (3) The value of the home and other personal property is equal to or less than the reasonable cost of disposal plus all sums owing to the real property owner pertaining to the home.

New Section 2. An owner of a mobile home park may remove, or cause to be removed, from the mobile home park a valueless home and personal property associated with the home at any time following a determination of abandonment as provided under K.S.A. 58-25,121 and after notice has been provided pursuant to K.S.A. 58-227. Within ten days of foreclosure by the mobile home park owner pursuant to K.S.A. 58-227(c), the mobile home park owner shall give written notice to the county treasurer of the county in which the mobile home park is located by affidavit

which shall include a description of the valueless home, its owner or occupant, if known, the date of removal, and if applicable, the name and address of any third party to whom a new title should be issued. A valueless home and any personal property associated with the valueless home shall be conclusively deemed in value to be equal to or less than the reasonable cost of disposal plus all sums owing to the mobile home park owner pertaining to the valueless home, if the mobile home park owner or an agent of the owner removes the home and personal property to a demolisher, sanitary land fill, or other lawful disposal site or if the mobile home park owner allows a disinterested third party to remove the valueless home and personal property in a transaction in which the mobile home park owner receives no consideration.

New Section 3. If a new title is to be issued to a third party who is removing a valueless home, the director of vehicles shall issue, upon receipt of the affidavit required in Section 2, a new title upon payment of a fee equal to the fee required for duplicate titles. Any tax lien levied is cancelled and the ownership interest of the previous owner or occupant of the valueless home is terminated as of the date of issuance of the new title. The new title owner shall take the title free of all rights and interests even though the mobile home park owner fails to comply with the requirements of this act or any judicial proceedings, if the new title owner acts in good faith.

New Section 4. Unless the valueless home is to be titled in the name of a third party, the mobile home park owner may dispose of a valueless home and any personal property to a demolisher, sanitary land fill, or other lawful disposal site under the terms and conditions as the mobile home park owner shall determine.

New Section 5. A person who removes or allows the removal of a valueless home as provided in this act is not liable to the previous owner of the valueless home due to the removal of the valueless home.

New Section 6. The rights provided in this act to a real property owner are not exclusive of other rights of the real property owner.

New Section 7. This act shall be effective from and after its publication in the statute book.