

Approved: 3-17-99
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Vice-Chairman Tim Carmody at 3:30 p.m. on February 15, 1999 in Room 313-S of the Capitol.

All members were present except:

Representative David Adkins - Excused
Representative John Edmonds - Excused
Representative David Haley - Excused
Representative Mike O'Neal - Excused
Representative Tony Powell - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Cindy Wulfschle, Committee Secretary

Conferees appearing before the committee:

Representative Sharon Schwartz
Ron Smith, Kansas Bar Association
Elwaine Pomeroy, Kansas Collectors Association & Kansas Credit Attorneys Association
Matt Goddard, Heartland Community Bankers Association
Kathy Olsen, Kansas Bankers Association
Representative Melvin Minor
Kim Barns, Pawnee County COOP Association
Joe Leiber, Kansas Cooperative Council

Hearings on **HB 2352 & 2329 - residency requirements of district magistrate judges**, were opened.

Representative Sharon Schwartz, appeared before the committee as the sponsor of **HB 2352**. She explained that the bill would clarify the residence requirements for district magistrate judges. It would require both district judges and district magistrate judges to live in the judicial district for which they have been elected or appointed at the time they are taking the oath of office. (Attachment 1)

Ron Smith, Kansas Bar Association, appeared before the committee as a proponent of the bills and suggested that magistrate judges be required to have a college education. (Attachment 2)

Hearings on **HB 2352 & 2329** were closed.

Hearings on **HB 2428 - limited actions, garnishment, & HB 2371 - civil procedure, garnishment, orders, answers of garnishee, forms**, were opened.

Elwaine Pomeroy, Kansas Collectors Association & Kansas Credit Attorneys Association, appeared before the committee as the sponsor of the proposed bills. He suggested that **HB 2332 - civil procedure, writs of execution upon property**, be amended into one of the bills. The group of bills would require the garnishee to mail a copy of the answer to the plaintiff's attorney and the plaintiff's attorney to send notice to the defendant as soon as the taking of the defendant's property is done. Currently, this is being done by the court, but because of backlog cases, it is often several weeks before the plaintiff's attorney receives his copy. (Attachment 3)

Matt Goddard, Heartland Community Bankers Association, appeared before the committee in opposition to both bills because it would be a second notice since the plaintiff already received one from the courts. (Attachment 4)

Kathy Olsen, Kansas Bankers Association, appeared before the committee in opposition to **HB 2371**. She indicated that the provisions in sections 4 & 5 of the bill would be welcomed but opposes the section that would require the garnishee to send an answer to the plaintiff. The courts currently send the answer to the plaintiff. (Attachment 5)

Hearings on **HB 2428 & 2371** were closed.

Hearings on **HB 2359 - small claims procedure, raising the jurisdictional amount and number of claims allowed**, were opened.

Representative Melvin Minor appeared before the committee as the sponsor of the bill and introduced Kim Barns, Pawnee County COOP Association, as a proponent of the bill.

Mr. Barns he explained that the bill would increase the amount of a small claim from \$1,800 to \$2,500 and allow a person or company to use small claims court 20 times a year. (Attachment 6)

Joe Leiber, Kansas Cooperative Council, supports the increase because of the price of goods and services have increased over the past years and the current amount doesn't seem to adequately address the rising increase of goods. (Attachment 7)

Ron Smith, Kansas Bar Association, appeared before the committee as an opponent of the bill. He believes that the current small claims statute allows for the unauthorized practice of law and that this bill would expand that practice.

Written testimony from Kansas Grain & Feed Association & Kansas Fertilizer & Chemical Association was provided to the committee. (Attachment 8)

Hearings on **HB 2359** were closed.

HB 2352 - residency requirements of district magistrate judges

Representative Loyd made the motion to report HB 2352 favorably for passage. Representative Gregory seconded the motion.

Representative Pauls made the substitute motion to delete the five year residency requirement and require district magistrate judges be law trained. Representative Klein seconded the motion.

Committee members were concerned as to whether small towns would be able to find district magistrate judges if there was the requirement that they be law trained. The motion failed 5-9.

The motion to report HB 2352 favorably for passage, carried.

The committee meeting adjourned at 5:00 p.m. The next meeting is scheduled for February 16, 1999.

ARON SCHWARTZ
REPRESENTATIVE, 106TH DISTRICT
GEARY, MARSHALL, REPUBLIC,
RILEY, AND WASHINGTON COUNTIES
2051 20TH ROAD
WASHINGTON, KANSAS 66668
(785) 325-2568

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES
COMMITTEE ASSIGNMENTS

STATE CAPITOL
ROOM 110-S
TOPEKA, KANSAS 66612-1504
(785) 296-7632
1-800-432-3924

COMMITTEE ASSIGNMENTS
MEMBER: HOUSE APPROPRIATIONS
HOUSE AGRICULTURE &
NATURAL RESOURCES BUDGET
HOUSE AGRICULTURE
HOUSE ENVIRONMENT

H.B. 2352

Mr. Chairman and House Judiciary Committee

I appear before you in support of H. B. 2352 today. This bill is an attempt to clarify the residence requirement for magistrate judges. The question "At what point must a person live in a judicial district to fulfill the residency requirements for becoming a district magistrate judge" needs to be clarified. The relevant statute is KSA 20-334 - Subsection (a) addresses district court judges and clearly states that a district judge must "be a resident of the judicial district for which elected or appointed to serve *at the time of taking the oath of office...*" Subsection (b) pertains to district magistrate judges and only says that they "*must be a resident of the county for which elected or appointed to serve.*"

H.B. 2352 simply makes the resident requirement for a magistrate judge consistent with the resident requirement for a district judge. As commissions consider candidates for a magistrate judge, it is important that they have an qualified slate of candidates to select from and that the residency requirement is clear. There are those that feel a candidate should maintain residency for 6 months prior to serving. In many rural areas, this requirement could limit the ability for selecting a judge to meet these requirements.

I urge your support of H.B. 2352 to clarify the present law.



**KANSAS BAR
ASSOCIATION**

1200 SW Harrison St.
P.O. Box 1037
Topeka, Kansas 66601-1037
Telephone (785) 234-5696
FAX (785) 234-3813
Email: ksbar@ink.org

Legislative Testimony
by the
Kansas Bar Association

TO: Members, House Judiciary Committee

**FROM: Ron Smith, General Counsel
Kansas Bar Association**

SUBJ: HB 2352, HB 2329

DATE: February 15, 1999

Mr. Chairman, and Members.

KBA supports these bills.

We have suggested this sort of residency requirement for district magistrate judges because it is the same as that required of lawyers taking district judgeships who move from out of town in order to take the job. The need to bring someone in from another county does not happen often, but the option to do it is important to proper administration of the courts and, unless one of these bills passes, not available. The Kansas Justice Initiative is recommending that magistrates be college educated. Current magistrates have to have a high school education. We think that even if the recommendation for college educated DMJs are not adopted, the residency change should be adopted.

Thank you.

REMARKS CONCERNING HOUSE BILL 2371 AND HOUSE BILL 2428

HOUSE JUDICIARY COMMITTEE

FEBRUARY 15, 1999

Thank you for giving me the opportunity to appear before you in support of these bills introduced by this Committee at the request of the Kansas Credit Attorneys Association, which is a state-wide organization of attorneys whose practice includes considerable collection work, and Kansas Collectors Association, Inc., which is an association of collection agencies in Kansas.

These bills propose to fix a potential constitutional problem with the Kansas garnishment and statutes. Your committee also introduced HB 2332, which would fix a similar problem with the execution statutes.

There is a growing line of cases (mostly federal) from across the country which have held that procedural due process requirements of the 14th Amendment to the U. S. Constitution and similar provisions in state constitutions require that where there is a taking of a judgment debtor's property under garnishment or execution procedures, the debtor is entitled to notice of what exemptions may apply to the property taken and of the procedure that can be invoked to assert any claim of exemption.

These cases include Aacen v. San Juan County Sheriff's Dept., 944 F. 2d 691 (10th Cir. 1991); Finberg v. Sullivan, 634 F. 2d 50 (3rd Cir. 1980); Deary v. Guardian Loan Co., Inc., 534 F. Supp. 1178 (S.D.N.Y. 1982); Dionne v. Bouley, 757 F. 2d 1344 (1st Cir. 1985); and most recently a case decided by the Montana Supreme Court, Dorwart v. Caraway, 1998 MT 191 (Aug, 1998).

It is believed by those who practice law in the area of debt collection that the current Kansas statutes on garnishment and execution do not meet the due process requirements set forth in the cases cited above. These three bills are designed to correct this.

Specifically, HB 2371 will amend the garnishment statutes under Chapter 60, and HB 2428 will amend the garnishment statutes under Chapter 61. These bills should be considered together as they address a common problem which cannot be fixed without consideration and passage of both bills. Perhaps they could be merged into one bill, along with HB 2332.

The proposed amendment to the garnishment procedures under Chapter 60 and Chapter 61 can be summarized as follows:

1. The garnishee, whether on a wage or bank garnishment, shall complete and file its answer in the same manner as now required under current law, except that the garnishee shall disclose on the answer form the last known address of the defendant according to the records of the garnishee.
2. If the answer indicates that the garnishee is holding funds or property of the defendant, the garnishee shall mail a copy of its answer to the plaintiff's attorney.
3. The plaintiff's attorney shall deliver or mail a notice to the defendant within 10 days after a copy of the answer is mailed to the attorney by the garnishee.
4. The notice form will set forth a list of the most common exemptions which apply to property taken under garnishment and a summary of the procedure by which the defendant can request a hearing to assert any claim of exemption. There is a separate notice form for wage and non-wage garnishments.

5. If the defendant wishes to request a hearing, the defendant within 10 days after the notice is served on the defendant by contacting the clerk to obtain a hearing date and notify the plaintiff's attorney of the date and time of the hearing.

6. If a hearing is requested, the court shall conduct the hearing within 5 to 10 days after the request is made. At the hearing, the court shall enter an order determining the exemption and such other order or orders as is appropriate.

The requirement that the garnishee promptly mail a copy of the answer to the plaintiff's attorney is to make sure that the attorney is made aware of the need to send the notice to the defendant as soon as possible after the taking of the defendant's property has occurred. Although current law requires the clerk to mail a copy of the answer to both plaintiff and defendant, because of the backlog in the clerk's office in the metropolitan areas, it is often up to three weeks after filing before the plaintiff's attorney receives a copy of the answer.

The requirement that the garnishee disclose the last known address for the defendant is to ensure that the plaintiff's attorney will have an accurate address with which to mail the notice to the defendant. Although the plaintiff's attorney may know where the defendant works or banks, the attorney does not always know where the defendant currently resides.

The proposed amendment to the execution procedures under Chapter 60 can be summarized as follows:

1. A copy of the writ of execution shall be served on the defendant as required under current law.
2. The notice of exemptions and procedure to request a hearing shall be served on the defendant along with the writ of execution.
3. The notice form shall be similar to the form proposed for non-wage garnishments.

4. The procedure to request and hold a hearing is identical to that proposed for garnishments.

It is believed that these bills present a balanced solution to the potential constitutional problems pointed out above. They give due regard to the interests of all parties, plaintiff, defendant, and garnishee, and particularly without placing any substantial new burdens on the garnishee.

We urge your support of these bills. If the Revisor thinks they could be combined, we would suggest combining them; HB 2332 could also be included.

Elwaine F. Pomeroy
For Credit Attorneys Association
And Kansas Collectors Association, Inc.



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
(785) 232-8215

To: House Judiciary Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 15, 1999

Re: House Bill 2428

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Judiciary to express our opposition to House Bill 2428.

Our concern with HB 2428 focuses on the mandate that the garnishee must mail to the plaintiff a copy of its answer to the garnishment order. This would be in addition to the copy of the answer that the garnishee already returns to the court clerk. It would seem to us that plaintiff notification is not a task that should be mandated on a private sector, third-party financial institution.

Savings institutions recognize our statutory responsibility in executing a garnishment order issued by the district court. Kansas savings institutions already contact a customer when a garnishment order is served on their account(s) or other property. HCBA fails to understand why it should be the responsibility of the financial institution to notify non-customers as well.

We respectfully request that the House Committee on Judiciary recommend HB 2428 unfavorable for passage.

Thank you.

House Judiciary
2-15-99
Attachment 4



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
(785) 232-8215

To: House Judiciary Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 15, 1999

Re: House Bill 2371

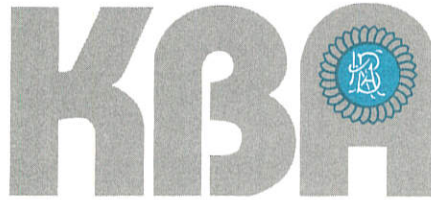
The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Judiciary to express our opposition to House Bill 2371.

Our concern with HB 2371 focuses on the mandate that the garnishee must mail to the plaintiff a copy of its answer to the garnishment order. This would be in addition to the copy of the answer that the garnishee already returns to the court clerk. It would seem to us that plaintiff notification is not a task that should be mandated on a private sector, third-party financial institution.

Savings institutions recognize our statutory responsibility in executing a garnishment order issued by the district court. Kansas savings institutions already contact a customer when a garnishment order is served on their account(s) or other property. HCBA fails to understand why it should be the responsibility of the financial institution to notify non-customers as well.

We respectfully request that the House Committee on Judiciary recommend HB 2371 unfavorable for passage.

Thank you.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 15, 1999

TO: House Judiciary Committee

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: **HB 2371**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear in opposition to a portion of **HB 2371** which makes amendments to the garnishment procedures.

As you know, the bill addresses due process concerns with our existing garnishment law. We, too, have been concerned that Kansas' law may be challenged in court and possibly be rendered unconstitutional. It is our belief that the Notice provisions of this bill in Sections 4 and 5 directly speak to the due process concerns as they arose in other states. We believe these amendments are necessary to bolster Kansas' law against a constitutional challenge.

As a representative of many garnishees, our opposition lies in the amendments which require every garnishee to send a copy of its answer to the plaintiff or plaintiff's attorney. We do not believe the garnishee should be required to incur the additional expenses associated with this additional mailing.

In a garnishment proceeding, a garnishee (a bank in many cases) merely serves as a reporting and transfer agent of property or funds. As such, it is the garnishee's duty to report to the court whether property or funds exist in the institution. Then, upon court order, the garnishee transfers the property or funds to the court.

The garnishee is not a party to the dispute. Their tasks are merely administrative or procedural and are in response to orders given by the court. Garnishees are burdened with the process of garnishment not by choice, but because they happen to hold property or funds that someone else wants.

Processing garnishments is quite costly. It consumes a great deal of time on the part of employees - who would better benefit the garnishee by doing other tasks that are more productive. There would also be additional costs incurred in generating a second Answer form and mailing it to the plaintiff.

Current law already provides that the clerk of the court is required to send a copy of the Answer of Garnishee to the plaintiff and the defendant (K.S.A. 60-718(c)). Why would a plaintiff need two copies of the same document?

It would appear that the requirement for a garnishee to send an additional copy of its Answer to the plaintiff is unnecessary as a copy is already sent by the court clerk and due process concerns are being cured in Sections 4 and 5 of this bill.

Thank you once again for this opportunity to speak on **HB 2371** and we hope you will favorably consider striking the requirement for the garnishee to send an additional copy of the Answer to the plaintiff.

House Judiciary
2-15-99

HOUSE JUDICIARY COMMITTEE

FEBRUARY 15, 1999

PREPARED BY KIM ALAN BARNES
PAWNEE COUNTY COOP

Mr. Chairman, and Members of the Judiciary Committee I am Kim Alan Barnes representing Pawnee County Coop Association of Larned, Kansas testifying in support of House Bill No. 2359. My employment at the Pawnee County Coop is that of internal auditor. The Pawnee County Coop Association was originally incorporated under the provisions of the Cooperative Marketing Act, K.S.A. Chapter 17, Article 16 on May 16, 1905. Since 1905 the Cooperative has steadily grown to have a trade territory in the following County's located here in the great State of Kansas: Pawnee, Barton, Edwards, Hodgemen, Rice, Rush and Stafford with major capital investments in real and personnel property throughout the trade territory. As expansion has come so has our exposure to risk in providing consumer credit therefor bringing us today to testify in support of House Bill No. 2359. This expansion has been in acquiring multiple existing facilities and sometimes preexisting accounts receivable. The choice to expand has been by our own free will and not under any stress or duress. Today we ask your assistance by changing the limitation on amount of claims from \$1,800.00 to \$2,500.00 and the number of claims that can be filed in small claims court from 10 to 20 in the same court during any calendar year. The Coop has a written credit agreement and policy that I would like to take this time to talk about.

Before an individual can open a charge account with the Coop they must first make formal application. This is represented by attachment Exhibit # 1. After making formal application the information received is verified by using the legal methods as allowed by law. The Coop reserves the right to allow the credit requested or to deny opening of the account. It has been said and I agree with the old age adage that Credit is given or earned as a Convenience and not a right given by citizenship. The account is monitored by the Coop management staff on a tri monthly basis. Those accounts that are 60 days Past Due will be stickered reminding the debtor that a payment is due. An account running from 90 to 120 days without just cause will be turned to a cash only basis. A letter requesting payment will be sent to the last known address asking the debtor to call or drop by to visit about the account. The letter and phone call process will continue until the General Manager requests a final notice to be sent and that notice will be that a filling in Small Claims Court is eminent. Today we are restricted by only having the right to file 10 in any calendar year. Many times we do not hear from the debtor until he becomes a Defendant in the Small Claims Procedure. This can bring several different reactions: Immediate payment in full or opening communication dialogue for a plan of repayment, see you in Court at the hearing or no appearance by the defendant at the time of hearing. The decision to file the 10 claims in Court is weighed very heavily on who might pay in the first scenario or who might not show up. Regardless the outcome if payment comes prior to Court hearing we are happy but we have still used one of the 10 times for potential collection without even going to Court.

Thus leaving the 11 and 12th or 20th case we might of filed unfilled until the next year. The next question that might be raised is what will the Court docket look like when all business can file 20 times a calendar year. These many fillings will congest up an all ready full judicial docket. We heard the same questions when we asked for the small claims filling in any one court to go from 5 to 10 several years go. What has happened to the Court system with the last increase? Currently we file several claims at the same time. The Court evaluates the Court Calendar setting the day for hearing at the legal prescribed time starting at a specific time running concurrently until all filings are heard by the Judge. This helps us the Plaintiff in our scheduling for Court appearance. Most recently we had five filings to be heard on a day in January. One case was not held as we were unable to get service of the defendant. The other four defendants were present along with myself representing the Plaintiff the Court had been over scheduled in the morning running into the afternoon. The Judge allowed me to use the Law library and met with the four defendants privately and we were able to work out repayment plans. The Judge and I met later which we asked for a continuance based upon the plans of repayment. Three of the four defendants had not even contacted our office prior to the hearing date again this opened a line of communication for collection. Now in regard to the posed question earlier on what will it do to the Court system. Three of the facilities that have been purchased here in Pawnee County were operated by three other different

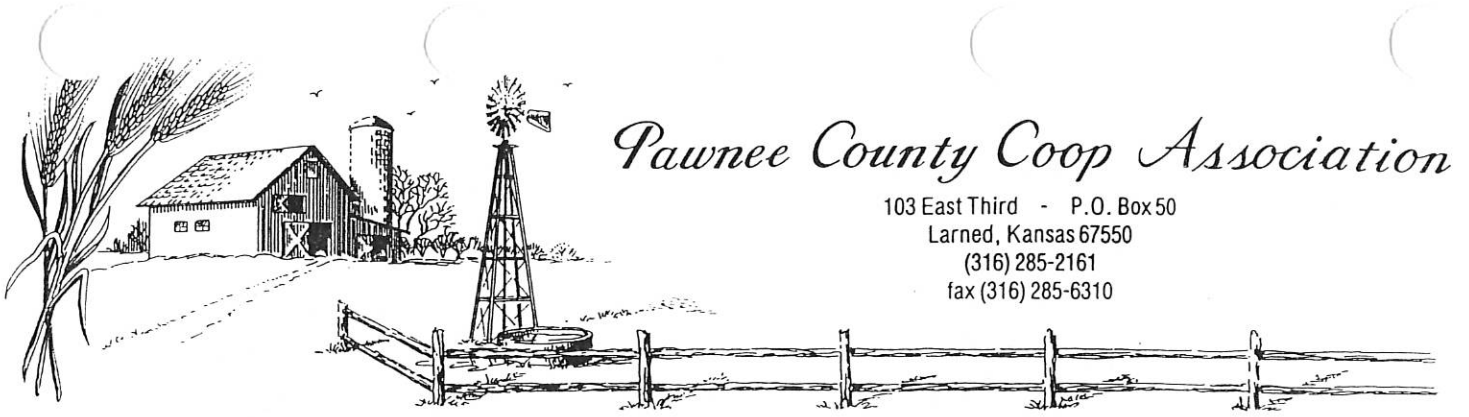
Companies who if still here would each be given under the law 10 Court filings per year making a total potential of 40 in Pawnee County District Court system. With this new proposal we would still be one half of that number 20 freeing up Court time.

I would like to now address the reason for increasing the value of filling amount from \$1,800.00 to \$2,500.00. Today a filing over the \$1800.00 requires that the Coop seek legal Council which intern normally costs 25% to 30% of the bill collected. This means that Coop staff members must met with the Attorney so that he can represent his client to the fullest. In todays economy unlike that of the year 1973 when the filling amount was around \$500.00 an account can reach \$2,500.00 rather quickly. We have retightened up our credit policy so that the higher limit will be less likely obtained but even those with good credit have times when they needed extra credit and some unforeseen expense kept them from paying the past due account. Like the filling in small claims court when an attorney enters the picture he might collect on the first letter or contact. One does not know when he wrote the last letter that the debtor would pay with just one more letter. Now he pays after the time spent by our staff and the attorney doesn't always win on the first letter but it does happen. Finally I leave you with this one last thought a sale isn't a sale until the bill has been collected likewise a judgment in small claims court doesn't mean the bill will be paid but it is a tool given by the founding fathers as a way for individuals to work out their differences with the aid of a Judge.

Thank you for considering our request.

Kim AlanBarnes
Pawnee County Coop

6-4



Pawnee County Coop Association

103 East Third - P.O. Box 50
Larned, Kansas 67550
(316) 285-2161
fax (316) 285-6310

CHARGE ACCOUNT AGREEMENT

Acct. # _____

Name of Patron _____

Address _____

City, State, Zip _____

Phone Number _____

SSN or TIN _____ Date of Birth _____

THIS AGREEMENT, made and entered on date stated below by the said Credit Patron and the Cooperative Association (named above), pursuant to the Consumer Credit Protection Act (Federal Truth in Lending Act, Public Law 90:321;82 stat. 146) and the Kansas Uniform Consumer Credit Code (K.S.A. 16(a)(1-101 et seq.).

The Cooperative Association agrees, if this agreement is approved by the Association, that it shall allow the Credit Patron to purchase goods and services on credit and the Credit Patron agrees to pay for any goods and services in accordance with this agreement.

Date: All purchases made on credit during the month that are reflected on the periodic billing statement for such month are due and payable upon receipt of the billing statement.

Convenience Credit: If all purchases are paid in full before the last day of the month following the month of purchase, the account shall not be subject to any Finance Charge.

FINANCE CHARGE: Any balance not paid before the second billing date, the last day of the month following the month of purchase, shall be subject to a FINANCE CHARGE of 1.5% per month which is an ANNUAL PERCENTAGE RATE of 18%. Said FINANCE CHARGE to apply to the unpaid balance on the account on the last day of the billing cycle carried over from the prior month, and the minimum amount of such charge shall be \$.50 per month.

Termination of Credit: The Cooperative reserves the right to terminate credit sales to Patron at any time without prior notification, and in addition thereto, no additional credit purchases will be allowed to any account that is 30 days past due.

Change in Terms: This agreement may be changed by the Cooperative Association to increase the Finance Charge, change the due date, change the billing cycle, change the method of calculating the Finance Charge, or change matters of a similar nature within the limitations of applicable law. Notice of any such change shall be given to the Patron in two billing cycles prior to the effective date of change.

Credit Limits: The credit Patron hereby acknowledges that while lower credit limits may be prescribed by the Cooperative for any Credit Patron, the credit limits shall be \$500.00 for non-producers and \$5,000.00 for producers, and additional credit will be extended beyond said credit limits only after satisfactory evidence of repayment ability or repayment arrangements have been approved at the discretion of the Cooperative's Board of Directors.

Security for Account: Any purchase(s) made pursuant to this agreement shall be secured by a security interest and lien in any investment the Patron may have in the Cooperative Association. Investment means any certificates of indebtedness, note, stock, or stock credits, or revolving fund credit, or patronage ledger credit. The Patron does not have the right to demand offset of such investment on his/her account. Such an offset may be made only at the discretion of the Board of Directors of this Association.

Agency: Until notified in writing to the contrary by the Patron, the Cooperative Association may assume that the Patron's spouse, children over the age of sixteen years, and employees, if any, are authorized to purchase goods or services and charge them to the Patron's account.

APPROVED BY COOPERATIVE

BY:

Name _____ Patron

Title _____ Spouse or Partner

_____ Date

NOTE: The Federal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Please advise the Cooperative if you wish any credit information regarding this account to be reported in the names of both spouses.

NAME
City, State, Zip

Pawnee County Coop
P.O. Box 50
Larned, KS 67550

CREDIT APPLICATION
PLEASE PRINT

NAME (First, Middle Initial, Last) (Age) (No. Dependents) Social Security Number

Spouse's/Partner's Name* (First, Middle, Last) (No. Dependents) Social Security Number

YOUR PHONE _____ *SPOUSE/PARTNER'S PHONE _____

ADDRESS (Number and Street) (City) (County) (State, Zip)

DIRECTIONS TO YOUR ADDRESS: _____

BUSINESS ADDRESS (Number and Street) (City) (County) (State, Zip)

LENGTH OF EMPLOYMENT: _____ PHONE NUMBER _____
(Years) (Months)

NAME OF BANK WHERE YOU DO BUSINESS (Address) (Account Number)

BUSINESS REFERENCE (Name and complete address)

BUSINESS REFERENCE (Name and complete address)

Nearest Living Relative Other Than Spouse (Name and complete address)

Items You Wish to Purchase

Estimated Monthly Purchases (Dollars) Applicant's Monthly Salary/Income Amount of Credit Desired

*Spouse's Place of Employment *Length of Employment *Spouse's/Partner's Monthly Salary

_____ offers convenience credit only.
(Name of Co-op)

Signature of Applicant _____ *Signature of Applicant's Partner/Spouse _____

NOTE: The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with the law concerning this creditor is Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580. * Complete if you wish credit to be reported in the names of both spouses/partners or if you will rely upon spouse's/partner's income.

9-7

Testimony of HB 2359
House Judiciary Committee
February 15, 1999
Prepared by Joe Lieber, Kansas Cooperative Council

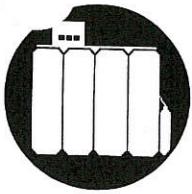
Mr. Chairman and members of the Committee. I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of nearly 200 cooperative businesses including farm supply, credit union, rural electric and farm credit banks. These organizations are owned by over 200,000 Kansans.

The Council would like to testify in support of HB 2359 because the current statute limits businesses, especially small businesses from collecting debts.

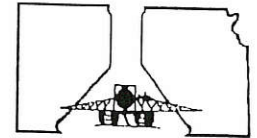
It is our understanding that the Small Claims Courts were established in 1973 to help small businesses and there was a \$300 limit. It is also my understanding that the limit has been increased twice.

Because of the increase in the price of goods and services over the years, we think it is important the limit be increased. The increase to \$2,500 and to 20 appearances a year would benefit those companies that can not afford to go through the regular court system.

Again, we ask for your support. Thank you for your time. I would be willing to stand for questions.



**KANSAS GRAIN & FEED ASSOCIATION
KANSAS FERTILIZER & CHEMICAL ASSOCIATION**



STATEMENT OF THE
KANSAS GRAIN & FEED ASSOCIATION
AND THE
KANSAS FERTILIZER & CHEMICAL
ASSOCIATION
BEFORE THE
HOUSE JUDICIARY COMMITTEE
REP. MIKE O'NEAL, CHAIRMAN
REGARDING H.B. 2359

FEBRUARY 15, 1999

KGFA & KFCA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTREGAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

The following statement is submitted on behalf of both the Kansas Fertilizer and Chemical Association (KFCA) and the Kansas Grain and Feed Association (KGFA). KFCA's nearly 500 members are primarily plant nutrient and crop protection retail dealers with a proven record of supporting Kansas producers by providing the latest crop protection products and services available in today's rapidly changing agricultural industry. KGFA is comprised of 1150 member firms including country elevators -- both independent and cooperative -- terminal elevators, grain merchandisers and feed manufacturers all of which rely on the production of Kansas producers for the vital raw ingredients which make our grain and feed industry the envy of the world.

KFCA and KGFA, respectfully request positive consideration of H.B. 2359 which increases the limit on small claims filings to \$2,500 from the current level of \$1,800 and increases the number of small claims that can be filed each year from 10 to 20. By increasing the number of filings limit to 20, H.B. 2359 will simply enable agribusiness operations in Kansas more opportunities to utilize the cost-effective process provided by small claims court. Additionally, increasing the small claims limit from \$1,800 to \$2,500 accounts for the impact of inflation and again expands the ability of agribusiness to utilize the small claims court.

Thank you for the opportunity to submit comments in support H.B. 2359 and please feel free to contact Doug Wareham, KGFA/KFCA Vice President of Government Affairs at (785) 234-0461 if you have questions or require additional information.