Approved: February 14, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 3, 2000 in Room 313-S of the Capitol.

All members were present except:
Representative Phill Kline - Excused
Representative Peggy Long - Excused
Representative Tony Powell - Excused
Representative Rick Rehorn - Excused
Representative Candy Ruff - Excused
Representative Clark Shultz - Excused
Representative Dale Swenson - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:
Randy Hearrell, Kansas Judicial Council
Elwaine Pomeroy, Kansas Collectors Association & Kansas Credit Attorneys Association
Judge Terry Bullock
Kathy Olsen, Kansas Bankers Association
Matt Goddard, Heartland Community Bankers Association
Roy Worthington, Kansas Land & Title Association

Hearing on **HB 2697 - recodification of Chapter 61, civil procedure for limited action**, was opened.

Elwaine Pomeroy, Kansas Collectors Association & Kansas Credit Attorneys Association, explained that the Kansas Judicial Council started its rewrite of Chapter 61, Code of Civil Procedure for Limited Actions in 1997 and took 18 months to finish. Some of the changes are:

- allowing judicial districts to adopt electronic filing of court documents;
- group together the same article rather than scatter them throughout the chapter;
- increase the tort claim & secured claims from $10,000 to $25,000;
- once the order has been issued for garnishment the clerk will be removed from the loop, and
- documents may be served by first class mail, fax, and electronic mail

Due to the amount of education that needs to be provided to the clerks and courts, he suggested changing the effective date from July 1, 2000 to January 1, 2001.

He explained that as currently written, the bill would do away with the changes made last Legislative Session regarding small claims. He suggested that this was an oversight and that the law governing small claims not be changed until the Kansas Supreme Court rules on its constitutionality. (Attachment 1)

Judge Terry Bullock presented a video that showed how electronic filing works in Shawnee County District Court. Four years ago the Court developed a pilot program to allow electronic filing with cases that were filed under Chapter 61. The result: it takes about two hours to process 3,000 – 4,000 debt collection cases, where as it use to take a whole day. (Attachment 2)

Kathy Taylor Olsen, Kansas Bankers Association, stated that it was unfair to make the garnishee send notices to the debtor when last year the Legislature decided that the clerks should send the notice. She believes that someone needs to have an accurate accounting of the payments. The garnishee is not a party to the dispute, usually they are an administrative service. (Attachment 3)

Matt Goddard, Heartland Community Bankers Association, commented that they had concerns about mailing out personal information to someone who is not a member of the Association. (Attachment 4)

Roy Worthington, Kansas Land & Title Association, appeared in opposition to the bill. Due to the tremendous number of Chapter 61 cases filed each year, it would require additional indexing which would increase the overhead costs to the title companies, which in turn, the cost would be passed onto the consumer. (Attachment 5)

Representative Carmody made the motion to approve the committee minutes form January 12, 18, 19, 20, 24, & 25. Representative Loyd seconded the motion. The motion carried.

Hearing on **HB 2697** remained opened.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for February 7, 2000.

REMARKS CONCERNING HOUSE BILL 2697

HOUSE JUDICIARY COMMITTEE

FEBRUARY 3, 2000

Thank you for giving me the opportunity to appear before you in support of HB 2697, which was introduced by your committee at the request of the Kansas Judicial Council. I am appearing on behalf 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. Both groups are vitally interested in Chapter 61 proceedings.

HB 2697 is a complete recodification of Chapter 61 known as the Code of Civil Procedure for Limited Actions, drafted by the Judicial Council.

The process which brought us here today began 4 years ago. In 1996, the Shawnee County District Court began developing a pilot project to allow the electronic filing of cases in that court under Chapter 61, under the direction of Hon. Terry Bullock, who was then Chief Judge of the district, funded in part by a grant from the Supreme Court.

The Shawnee County Court was trying to alleviate a problem faced by many judicial districts in this state, the tremendous increase in the number of lawsuits filed under Chapter 61. As a result of this increase, courts, clerks, sheriffs, and attorneys have become swamped in paper. The need to develop a more efficient system has become critical throughout the state.

Later that same year, the Judicial Council agreed to study the need to amend Chapter 61 to allow the electronic filing of court documents and its Civil Code Advisory Committee appointed a subcommittee to do the study. The subcommittee was chaired by Judge Bullock and in addition consisted of another district judge, two collection law attorneys, a banking law attorney, two lawyers from Kansas Legal Services, the clerk of the District Court from Morris County, and a staff member

from the Office of Judicial Administration. In the later stages of the project, the subcommittee got assistance from the Clerk's staff in Shawnee County. Judge Bullock will discuss the work of the subcommittee.

The subcommittee began its study in May, 1997, and drafted a complete re-write of Chapter 61 over the next 18 months. Eventually, the package was approved by the Judicial Council and was submitted to the legislature in early January of this year. In addition to the bill, the Judicial Council has approved comments to each section. Bruce Ward, a member of the subcommittee, has prepared a handout which lists those comments on the left side of the page, and the pages of the bill to which the comments refer on the right side of the page.

In the meantime, the Shawnee County District Court adopted an electronic filing procedure which is now fully operational for documents filed in that court under Chapter 61. That procedure allows attorneys to send court documents electronically from their office to the Clerk's office and for the Clerk to process those documents without any paper changing hands except for a copy of certain documents which must be delivered to the defendant. The process has dramatically speeded up the time it takes to process cases under Chapter 61 in Shawnee County. Judge Bullock will present a video which shows how electronic filing works.

HB 2697 builds on the Shawnee County procedure and adds additional streamlining to the law. The significant changes to the law in the bill are as follows:

a. Any judicial district in the state may adopt a procedure for the electronic filing of court documents as long as the procedure complies with the rules of the supreme court. A district may adopt an electronic filing procedure, or continue to accept filings in the traditional way or adopt a combination of the two systems. Under any system adopted, paper filings will still be allowed.

b. The provisions of the new code will be better organized so that all similar procedures will be grouped in the same article rather than scattered throughout the entire chapter.

c. The jurisdictional limits for tort claims and secured claims will be increased from $10,000 to $25,000. There is no dollar limit on unsecured contract claims which is the same as current law.

d. The filing of a written answer by the defendant is mandatory.

e. Any document which is required or allowed to be served, may be served by first class mail, fax transmission, and Internet electronic mail, in addition to existing means of service. No default judgment may be taken if service of process is by first class mail, fax transmission or electronic mail.

f. The court will have the option to schedule a pretrial conference. Default judgment or dismissal can be ordered for non-appearance by a party. The court can enter judgment as a matter of law if there is no legal claim stated by the plaintiff or legal defense stated by the defendant.

g. Entry of judgment may be in a single case by a single journal entry or in more than one case by a master journal entry.

h. The clerk will be removed from the loop on all garnishments. Once a garnishment order has been issued, all further communication shall be between the plaintiff and garnishee on the answer and payment of funds withheld. The answer is not to be filed, no pay-in order of the court is necessary, and payment shall be made directly from the garnishee to the plaintiff.

i. Wage garnishments shall be continuing; they shall remain in effect until the judgment is paid or the garnishment is released. If more than one judgment creditor files a wage garnishment against the same debtor, all such judgment creditors shall share pro rata in the wages withheld. Payment is to be made automatically each month by the garnishee to all such judgment creditors. These changes do not affect the existing exemptions on garnishment. Even with multiple garnishments, the debtor's wages will never be garnished for more than the percentage the law currently allows.

j. Requests for garnishments, aids and cites can be made individually in single cases as now is done or by a master request covering more than one case.

We have several suggestion for amendments to the bill. We would urge the committee to delay the effective date of the bill from July 1 to January 1, 2001, to give additional time to educate the bench, bar, clerks, and garnishees if the bill passes, and to allow the Supreme Court time to adopt and approve forms.

It is also been forcefully called to our attention that as written, the bill would undo the legislative decision made in 1999 concerning small claims procedure. We would suggest that, particularly because the constitutionality of the 1999 law has been challenged in the Kansas Supreme Court, the law governing small claims should not be changed until that case has been decided. We would therefore suggest that new sections 103 through 115 be deleted from the bill and that the existing statutes governing small claims be eliminated from the repealer section and a corresponding adjustment be made in the title to the bill.

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

KANSAS DISTRICT COURT

Chambers of
TERRY L. BULLOCK
District Judge

Shawnee County Courthouse
Division No. Six
Topeka, Kansas 66603-3922
(785) 233-8200 Ext. 4375
Fax (785) 291-4917

Officers:
JOSEPH MARTINEZ
Official Court Reporter
(785) 233-8200 Ext. 4376
LYNN KEEZER
Administrative Assistant
(785) 233-8200 Ext. 4375

TESTIMONY OF JUDGE TERRY L. BULLOCK IN SUPPORT OF HB 2697

For the past several years our courts have experienced an explosion of new cases, particularly debt collection cases. About half of these are medically related. Court dockets and Clerk's offices have staggered under the load of paper generated by these new cases.

In Shawnee County, for example, our debt cases have doubled in eight years, with no real increase in staff to handle them. Last year we had over 20,000 new cases and we worked over 100,000 old ones (where judgment has been taken and collection is underway). When you consider we work each old case every 8 weeks, that's approximately 600,000 contacts with old cases annually, and since they are post-judgment matters, they don't even show up in our court statistics.

Obviously, with limited budgets, something had to be done differently. So, under a temporary rule, we developed a paperless system whereby we can process 3-4,000 cases in 2 hours every Tuesday morning at the Kansas Expocentre's Heritage Hall. With your permission, we have a brief film which shows how it works.

[FILM]

When these new inventions were learned about elsewhere others wanted them too and a special sub-committee of the Kansas Judicial Council was created to re-draft Chapter 61 to allow for these modern and effective procedures to be available state-wide in districts where they would be useful and desired. The format of the Bill (HB 2697) is designed to allow each district to adopt such parts of the plan as may be useful and needed, but not to require it. In order words, the Bill adds options for our diverse districts. If the court in a small district has but a few cases, they can be done in the same way they have always been done, if that is their choice. In busier districts, however, the new tools will be available to automate and deal with the increasing load in a cost-efficient manner.

Just a couple of examples will illustrate the savings afforded by this Bill:

House Judiciary
2-3-2000
Attachment 2

1. AIDS. When judgment is taken, collection begins. It usually starts with a proceeding in aid of execution (AID) where debtors disclose their finances and payment plans are worked out. In the old system a busy lawyer might file 300 applications for AIDS in one day. The court would then sign 300 Orders authorizing the procedure (after the Clerk pulled 300 files). The Clerk would then prepare 300 AID Orders and deliver them to the Sheriff who would then hand carry them to the 300 debtors and then prepare and file 300 documents saying the Orders had been served. That's 1200 documents, just so counsel can have a visit with debtors about a payment plan!

   In the new system, the lawyer transmits one master motion with 300 names on an electronic list. The court approves on screen. The list then goes to the Sheriff electronically where the Sheriff's computer mails the automated notices and electronically notifies the court's computer it has been done and there's no paper at all! There are also no errors, as the information is not re-transcribed.

2. GARNISHMENTS. Under the present law, judgment creditors must file garnishments each month, all of which are personally served by the Sheriff. If there are several creditors, all file garnishments, although only one "hits" at the right time to "catch" funds. Nonetheless, the current employer is required to answer them all. Multiply this times hundreds of thousands and you can see how much absolutely worthless paper is being generated in our Court Clerk's offices and hand delivered every month by our Sheriff's in every courthouse in our state.

   The new plan would create a continuous garnishment, done once for each debt and made effective until paid. If there are several garnishments, they are simply pro-rated. Think of it - - one per case - - and that sent by e-mail, if everyone agrees.

Known concerns:

1. Small Claims. Representation by corporate officials in small claims cases was authorized last legislative session. That matter is in litigation now. Our committee worked on this section before the change was made and we frankly, didn't catch it. No change is intended and we would gladly concur with including present language.

2. Liens on real estate. This bill makes Limited Actions judgments liens on real estate. This is apparently a problem for abstractors. Remember

these judgments can be for many hundreds of thousands of dollars. Nonetheless, we could delete this provision and use the former system of registering those judgments under Chapter 60. Although this creates more procedures and more paper for the Clerk, it doesn't happen often. We leave the choice to your good judgment.

3. Garnishments:

A. Notice to debtors.

I understand the Bankers are resistant to sending the debtors notice of garnishment, which is required by the Constitution. Remember, the notice must be sent within a few days of the garnishment. The garnishee is the only one who knows when that is and where the debtor is. Further, under the new plan it only happens once - once per debt forever until paid; a very low burden indeed.

B. Direct payments to plaintiffs.

Some question has also been voiced about direct payments by garnishees to plaintiff's counsel. This is intentional. The Clerk receives no other payments. Those are made direct. Sending garnishment payments to the Clerk and making her receive, record, account and pay out (with another court order) is meaningless. Frankly, we have done it this way by rule in the major urban counties for some time. It has caused no problems of which I am aware.

The improvements allowed by this re-drafted Chapter 61 are truly remarkable. They are also highly cost effective. For example, the programming has all been done and will be made available to other districts free. Mr. Bruce Ward of Wichita was the committee draftsman. He has prepared a comment for each section and he is here and can answer all questions as to specific issues.

I urge you to adopt HB 2697. We are very excited indeed about its possibilities.

Respectfully submitted,

Terry L. Bullock
Chair Chapter 61 Sub-committee
Kansas Judicial Council

The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 3, 2000

TO: House Committee on Judiciary

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: HB 2697: Chapter 61

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to address some concerns we have with **HB 2697**.

Garnishment procedures. For several years, there has been concern that the Kansas statutes regarding garnishments would not pass due process muster. Particularly, the concern is that the judgment debtor is not aware of his or her rights to claim an exemption from garnishment and to request a hearing. The solution appears to be that someone should be sending a notice of these rights to the judgment debtor.

The 1999 Legislature, in **HB 2371**, required the court clerks to send this notice. Apparently, this procedure was not satisfactory as New Section 53 of **HB 2697**, puts the burden of sending this additional notice on the garnishees. As a representative of many garnishees, we are opposed to this section.

Currently, in a garnishment proceeding, the 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. Once that is done, then, upon court order, the garnishee transfers what property or funds they have to the court.

The garnishee is not a party to the dispute. The tasks performed by a garnishee are merely administrative and 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 someone else's property or funds that are the subject of dispute.

Processing garnishments is quite costly. It consumes a great deal of time on the part of employees and takes them away from tasks that are productive to the employer. This bill would not only increase the costs of dealing with garnishments for a completely disinterested third party – the garnishee – but it also raises concerns about liability for failure to send the notice. What is the rationale for putting such a burden on the garnishee?

Another concern we have with **HB 2697** lies in New Sections 54-58. As stated above, current law requires the garnishee to send the Answer to the court. Once the court processes the Answer, an Order is issued to the garnishee and the garnishee complies with the order, remitting what property and funds are ordered by the court. According to these new sections, the court clerk is completely taken out of this loop. Under this bill, the garnishee would be sending the answer and what funds were found directly to the garnishing creditor. No longer would there be an official "accounting" of what transpired in the case.

800 SW Jackson Suite 1500 • Topeka, Kansas 66612-1265 • (785) 232-3444
email kbaoffice@ink.org

Obviously, this is a policy decision for the Legislature to make. We would simply ask that if these provisions were to remain a part of this bill, that an amendment be included to give some protection to garnishees who comply with the law. Otherwise, prudent garnishees will be required to incur yet more costs in the process by having to send all correspondence by registered or return receipt requested mail, thereby creating their own record.

Small claims court procedures. You will all recall the amendments made to the Small Claims Procedures Act in the 1999 Legislative Session. Most of you are also aware that there is a case pending in the Kansas Supreme Court which will determine the constitutionality of those changes. **HB 2697** does not contain the changes made by the 1999 Legislature and we would ask the committee to remove those sections from the bill until the Supreme Court has had a chance to rule on the matter.

HEARTLAND COMMUNITY BANKERS ASSOCIATION

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 3, 2000

Re: House Bill 2697

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Judiciary to express our opposition to certain provisions in House Bill 2697.

As financial institutions, the members of HCBA deal with garnishment orders on a daily basis. Our primary concern with HB 2697 focuses on the mandates for private business that are contained in new sections 53, 54 and 55. Those provisions force new responsibilities on garnishees that should remain a function of the court system.

New Section 53 would require the garnishee to notify a judgement debtor (1) that a garnishment order has been issued and to explain the effect of such an order, (2) of the judgement debtor's right to assert any claims of an exemption and (3) of the judgement debtor's right to a hearing. In addition, New Section 54 and New Section 55 force the garnishee to provide its answer to a garnishment order to both the judgement creditor and judgement debtor.

Financial institutions are intermediaries in the garnishment process. An institution is involved only because it holds assets of the judgement debtor. We know of no justification for requiring the garnishee to notify the creditor of its answer to a garnishment order. It would seem to us that plaintiff notification is not a task that should be mandated on a private sector, third-party financial institution.

Last year, the Kansas Credit Attorneys Association told this committee that similar legislation was needed because of concerns that the due process rights of debtors were not being protected. It would again seem to us that those rights should be safeguarded by someone other than a private sector, third-party financial institution. Although HCBA members may be depositories for judgement debtors, our members should not be the guardians of their constitutional rights. That is a role best left to the court system.

Finally, HCBA is concerned about the liability that may result from an answer to the garnishment order no longer going to the court clerk. Under HB 2697, the garnishee's answer to the order is provided to the judgement creditor and the judgement debtor, but not the court. HCBA believes a garnishee should provide its answer to the court rather than a private citizen plaintiff and the plaintiff's attorney.

We respectfully request that the House Committee on Judiciary remove language from HB 2697 that mandates the current duties of the court system onto private sector financial institutions.

Thank you.

House Judiciary
2-3-2000
Attachment 4

KANSAS LAND TITLE ASSOCIATION
434 N. MAIN
WICHITA, KS 67202

TO: House Judiciary Committee

RE: House Bill 2697

The Kansas Land Title Association is **opposed** to New Section 64 of House Bill 2697 which treats judgments rendered under the code of civil procedure for limited actions the same as judgments rendered under chapter 60.

Under present law, title companies are responsible for checking all chapter 60 cases from the filing of the petition, due to the fact that judgments rendered in such cases become liens on the real estate of the judgment debtor, with liens having an effective date of the filing of the petition but not to exceed 4 months prior to the entry of the judgment.

Existing K.S.A. 1999 Supp. 60-2202(b) and K.S.A. 60-2418 provides a procedure for making chapter 61 judgments liens on real estate, when the judgment creditor determines that the judgment debtor has non-exempt real estate. The existing law requires the judgment creditor to pay a $15.00 fee to the clerk of district court and have the judgment renumbered as a chapter 60 case. When the judgment is renumbered as chapter 60 case, title companies will then index the judgment as lien on the judgment debtor's real estate.

The results of New Section 64 would require title companies to index chapter 61 lawsuits from the filing of the petitions, in the same manner required for chapter 60 lawsuits.

Due to the tremendous number of chapter 61 cases filed each year (see below), this additional indexing requirement will increase the overhead cost of title companies, which in turn, will increase the cost of title services to the consumer.

Example of approximate 1999 chapter 61 filings:

Riley County - 2,064 (compared to 289 chapter 60 filings)
Shawnee County - 17,256 (compared to 7,027 chapter 60 filings)
Sedgwick County - 25,083 (compared to 3,934 chapter 60 filings)

New Section 64 (b) is very objectionable in that it permits judgments previously rendered to become liens on real estate by filing a notice with the clerk of the court. Such a procedure would impose the impossible requirement for title companies to check all chapter 61 judgments rendered prior to enactment of the bill on a daily basis to see if a notice had been filed making the judgment a lien on real estate.

New Section 64 will also make titles to real estate much more uncertain and lead to greater losses to consumers and title companies.

House Judiciary
2-3-2000
Attachment 5

The burden imposed by New Section 64 upon consumers and title companies will greatly outweigh the benefit to judgment creditors.

The Kansas Land Title Association is requesting the attached amendments to New Section 64 which will preserve the existing law and to New Section 16 which conforms the section to existing K.S.A. 61-1729.

Sincerely,

Roy Worthington

Roy Worthington
Chairman, Legislative Committee

judgments entered under the code of civil procedure for limited actions shall be taken in the manner provided in article 24 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. Executions and orders of sale issued hereunder may be levied upon real property as provided under the appropriate provisions of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 64. (a) Judgments rendered under the code of civil procedure for limited actions shall be a lien on the real estate of the judgment debtor within the county in which the judgment is rendered. Except as modified herein, the provisions of K.S.A. 60-2201, subsection (a) of K.S.A. 60-2202 and 60-2203a, and amendments thereto, shall apply to actions and judgments filed under the code of civil procedure for limited actions.

(b) Judgments previously rendered under chapter 61 of the Kansas Statutes Annotated and amendments thereto may be made a lien upon real estate if a party in whose favor a judgment is rendered under chapter 61 of the Kansas Statutes Annotated, shall file a notice with the clerk to have such judgment be made a lien against the real estate of the judgment debtor within the county in which the judgment was rendered. The form of the notice shall be prescribed by rule of the supreme court of this state. Thereafter, such judgment shall be a lien on the real estate of the judgment debtor within the county in which the judgment is rendered just as if the judgment had been rendered under this act, and the provisions of K.S.A. 60-2201, subsection (a) of K.S.A. 60-2202 and 60-2203a, and amendments thereto, shall thereafter apply to such judgment.

New Sec. 65. The provisions of article 23 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, relating to exemptions from seizure and sale, shall apply to attachments, executions and other process issued from any court in this state pursuant to the code of civil procedure for limited actions.

New Sec. 66. (a) As an aid to the collection of a judgment, the judgment creditor is entitled to have an order for a hearing in aid of execution issued by the court at any time after 10 days after judgment. There is no requirement that an execution first be issued and returned unsatisfied. No application for such order needs to be filed except as specially required in this section.

(b) An order for a hearing in aid of execution may be issued at the request of a judgment creditor in an individual case or by a master request covering more than one case, and shall require the judgment debtor to appear and furnish information under oath or penalty of perjury when required by the court concerning the debtor's property and income before the court at a time and place specified in the order within the county where the court is situated. The form of the order shall be set forth in rules of the supreme court of this state. The court may cancel the hearing

PROPOSED AMENDMENT
KANSAS LAND TITLE ASSOCIATION

Judgments rendered under the code of civil procedure for limited actions shall be a lien upon the real estate of the judgment debtor when the party in whose favor the judgment was renders complies with the requirements of K.S.A. 1999 Supp. 60-2202 (b) and K.S.A. 60-2418, and amendments thereto.

5-3

New Sec. 15. The provisions of K.S.A. 60-206, and amendments thereto, governing the computation and extension of time, shall govern actions pursuant to the code of civil procedure for limited actions, except where provisions to the contrary are specifically included in the code.

New Sec. 16. Upon motion of any party, the court shall order that an action filed under the code of civil procedure for limited actions, except an action filed pursuant to the small claims procedure act, sections 102 through 114, and amendments thereto, shall thereafter be governed by the provisions of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The party obtaining an order under this section shall pay any additional docket fee required had the action been filed under chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 17. (a) By plaintiff. Whenever a plaintiff demands judgment beyond the scope of actions authorized by the provisions of section 2, and amendments thereto, the court shall either:

(1) Transfer the action to the chief judge of the judicial district for assignment and hearing pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, assessing the increased docket fee to the plaintiff; or (2) allow the plaintiff to amend the pleadings and service of process to bring the demand for judgment within the scope of actions authorized by the provisions of section 2, and amendments thereto, assessing the costs accrued to the plaintiff.

(b) By defendant. If a defendant asserts a counterclaim or cross-claim beyond the scope of the code of civil procedure for limited actions, the case shall be referred by the chief judge for assignment and hearing pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, assessing the increased docket fee to the defendant.

New Sec. 18. The following provisions of article 2 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, are hereby adopted by reference and made a part of this act as if fully set forth herein, insofar as such provisions are not inconsistent or in conflict with the provisions of this act:

(a) K.S.A. 60-215, and amendments thereto, relating to amended and supplemental pleadings, except that the time for filing amended pleadings and for responding thereto shall be 10 instead of 20 days;

(b) K.S.A. 60-217, and amendments thereto, relating to capacity of parties;

(c) K.S.A. 60-218, and amendments thereto, providing for joinder of claims and remedies, K.S.A. 60-219 and 60-220, and amendments thereto, providing for joinder of parties, and K.S.A. 60-221, and amendments thereto, relating to misjoinder of parties and claims;

(d) K.S.A. 60-224, and amendments thereto, relating to intervention,

PROPOSED AMENDMENT
KANSAS LAND TITLE ASSOCIATION

Upon motion of any party, the court shall order that an action filed under the code of civil procedure for limited actions, except an action filed pursuant to the small claims procedure act, sections 102 through 114, and amendments thereto, shall thereafter be governed by the provisions of chapter 60 of the Kansas Statutes Annotated. The party obtaining an order under this section shall pay any additional docket fee required had the action been filed under chapter 60 of the Kansas Statutes Annotated. Upon such order of the court and payment of any additional docket fee, the clerk of the district court shall renumber the case as a case filed under chapter 60 of the Kansas Statutes Annotated in the same manner as required by K.S.A. 60-2418 and amendments thereto.

(conforms to present K.S.A. 61-1729)

5-4