

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Vice-Chairman Jeff Jack at 3:30 P.M. on February 1, 2005 in Room 313-S of the Capitol.

All members were present except:

Dean Newton- excused
Michael Peterson- excused
Mike O'Neal- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Scott Schneider, City of Wichita
Sandy Jacquot, League of Kansas Municipalities
Kathy Porter, Office of Judicial Administration
Jay Hinkel, Attorney for city of Wichita
Ron Hein, RJ Reynolds
Kathy Damron, Phillip Morris
Dan Hejtmanek, Kansas Trial Lawyers Association

The hearing on **HB 2113 - municipal court collecting fines and court costs**, was opened.

Scott Schneider, City of Wichita, appeared before the committee as the sponsor of the proposed bill. He explained that it allows municipal courts to collect unpaid fines as District Courts do by requiring delinquent defendants to pay the cost of the collection fee, as well as the fine, and converts those debts into civil judgements. He estimated that Municipal Courts in Wichita have \$26 million in uncollected fines in the past two years. (Attachment 1)

Mr. Schneider provided the committee with an amendment that would clarify that the bill would apply to municipal courts and they would follow the same steps as district courts when collection delinquent fines. (Attachment 2)

Sandy Jacquot, League of Kansas Municipalities, supported the City of Wichita's efforts because it would enable other municipal courts to use this tool. The amount of delinquent moneys are huge and could possibly effect the tax base. (Attachment 3)

Kathy Porter, Office of Judicial Administration, was concerned that current language in Section 1(h), which provides that "any collection for debt or restitution may be enforced pursuant to the code of civil procedure for limited actions" doesn't do what the City of Wichita wants. She proposed an amendment which would allow municipal courts to adopt proceedings in accord with the Code of Civil Procedure for Limited Actions so those proceedings would take place in municipal courts rather than district courts. (Attachment 4)

Ms. Porter explained that district court collections are handled two ways:

- participating in the state garnishment program and garnish paychecks and tax refunds
- entering into debt collection contracts, in which the collection agency is allowed to collect fees on top of what is owed to the court.

The Attorney General's Office has collected over \$1 million in the last year through collection agencies.

Jay Hinkel, Attorney for City of Wichita, reiterated that the language in the bill mirrors the statute which applies to the district courts and that the only intention of the bill is to collect fees & fines in delinquent cases.

Written testimony in support of the bill was provided by the Unified Government of Wyandotte County. (Attachment 5)

The hearing on **HB 2113** was closed.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 1, 2005 in Room 313-S of the Capitol.

The hearing on **HB 2152 - master settlement agreement for tobacco; appeal bond limitations apply to affiliates of signatory**, was opened.

Ron Hein, RJ Reynolds, appeared as the sponsor of the proposed bill. He explained that in 2003 the Legislature approved an appeal bond cap involving appeals with tobacco manufactures who were signatories to the Master Settlement Agreement (MSA). The bond cap was set at \$25 million. The proposed bill would add "affiliates" of signatories to the MSA, because the affiliates may be sued at sometime. There was some concern with the term "affiliates" in line 17, and Mr. Hein had no objection to a more clearer definition. (Attachment 6)

Kathy Damron, Phillip Morris, appeared as a proponent to the bill. She stated that thirty-one states have adopted the bond cap applying to companies that have signed the MSA. Phillip Morris considers this as a technical change and it's intended to apply only to judgements under tobacco claims. (Attachment 7)

Derick Crawford, Phillip Morris, stated that the bill only tries to clarify the definition & security for MSA payments.

Dan Hejtmanek, Kansas Trial Lawyers Association, appeared as an opponent of the bill by explaining that no other entity has such caps on appeal bonds other than tobacco companies. If the committee feels that they need to report the bill favorably he requested an amendment to clarify that the affiliates of signatories to the MSA be limited to tobacco product manufactures and apply to cases filed on or after July 1, 2005. (Attachment 8)

The hearing on **HB 2152** was closed.

Representative Davis requested three bill introductions

- limiting liability on home improvement
- amendments to the consumer protection act relating to the definition for "workman like performance"
- Uniform Interstate Enforcement Domestic Protection Orders Act

Representative Crow made the motion to have the requests introduced as committee bills. Representative Garcia seconded the motion. The motion carried.

The committee meeting adjourned at 4:30 p.m. The next meeting was scheduled for Wednesday, February 2, 2005 in room 313-S.



Scott J. Schneider, J.D.
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TESTIMONY

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House Bill 2113 Delinquent Municipal Court Fines

January 28, 2005

The City of Wichita supports House Bill 2113. The City of Wichita is requesting this legislation to help Wichita Municipal Court, in fact the Municipal Courts of all first class cities in Kansas, more effectively deal with the growing problem of delinquent fines. The number of people who fail or outright refuse to pay fines after being found guilty of an offense in Wichita Municipal Court has reached alarming levels and is increasing.

House Bill 2113 requests that Municipal Courts be allowed the same authority for collecting unpaid fines as District Courts by 1) requiring delinquent defendants to pay the cost of the collection fee as well as the fine and 2) converting those debts into civil judgments. These are two different aspects of the problem. The initial version of the Bill addresses only the first aspect. The current version addresses the total problem.

If Municipal Court orders were given the same treatment that District Court orders have under current law, the Municipal Court order could automatically be converted to a civil judgment, giving Court officials more effective tools, such as garnishment, to collect those debts.

There are more than 143,000 Municipal Court orders where the fines have not been paid. It is much simpler and less burdensome to enforce Municipal Court orders that are automatic civil judgments than it is to litigate each order to obtain a civil judgment.

While the Municipal Court does not exist to produce revenue, there is a significant financial component to this problem. Despite efforts to work out payment plans with defendants and despite the use of a collection agency, the total amount of delinquent fines still owed Wichita Municipal Court totals nearly \$29-million. Realistically, we estimate about \$16-million of that amount could be collected. Given cuts in promised state funding and pressure to not raise taxes, being able to collect more of the money we are already owed, is a significant solution.

From 1998 through 2004, Wichita Municipal Court sent over 140,000 cases to a collection agency for processing. Those cases amounted to \$28.7-million in delinquent fines. The average collection rate is about 20% or \$5.75-million. Under agreement with the collection agency, Municipal Court pays a fee of 19.5% of the money collected, which totaled \$1.1-million year-to-date.

Under House Bill 2113, the defendant who owes the delinquent fine would pay the full amount of the fine and, in addition, the fee that must be paid to the collection agency. In simple terms, here is how it would work. If the delinquent amount owed the court is \$100, the collection agency now keeps \$19.50 and sends \$80.50 to the court. Under House Bill 2113, the delinquent defendant would pay \$119.50, with the full \$100 fine going to the court and the additional \$19.50 going to the collection agency as the cost of its fee. All this does is make the person who owes the delinquent debt pay the cost of having to collect it. Current state law allows Districts Courts to include collection fees as part of the total collection process, but the Municipal Court Procedure Act is silent on this issue. Municipal Courts should have the same authority to recoup the costs of collection as the District Courts.

- The magnitude of this problem is probably surprising to many who think of Municipal Courts in a much more limited way. Many Municipal Courts are small or even part-time operations. Wichita Municipal

Court however, has five appointed judges and 23 pro-tem judges. In any given year, the Court handles more than 200,000 cases including traffic infractions, driving under the influence, petty theft, prostitution, drug violations and domestic violence. Judges also hear cases dealing with Health, Fire, and Central Inspection violations. Wichita Municipal Court is the largest limited jurisdiction court in the state. If State and Local laws are to be respected, and if the Court system is to be viewed as fair and impartial in its administration of justice, there must be a more effective way to deal with people who flaunt the law and the rulings of the Court. HB 2113 does that.

- There may be concern by some members of the Legislature about doing anything which gives the appearance of raising fees or taxes. House Bill 2113 does not impose new fees, it simply makes those who owe the court, who owe society for a violation of the law, responsible for paying the full cost of that debt. And the simple fact is, it does not at all affect people who accept their responsibilities and meet their obligations. It only affects people who have been found guilty of breaking the law and then fail or refuse to live up to those responsibilities.
- Nothing in state law prevents Municipal Courts from taking these cases to District Court and filing actions to have the owed amount converted to a civil judgment. For each case, it would take a significant amount of legal paperwork and a minimum of six months to obtain a civil judgment. In Wichita alone, this will initially generate thousands of new litigation cases; going forward, hundreds of new cases will be filed each year. The end result will be a significant burden on district court judges, staff, and budgets. We do not want or intend to put this kind of burden on District Court or County Sheriff's who would have to serve process on such cases. That's why we are asking for your help, cooperation and support of HB 2113. Under the terms of that bill, Municipal Courts would have limited jurisdiction to handle these cases without any burden on District Courts.

Wichita Municipal Court Delinquent Fines Placed with the Collection Agency

1998	52,709	\$7,802,892	\$ 828,136	\$178,250	\$ 6,974,756
1999	10,916	\$3,746,873	\$ 966,426	\$214,246	\$ 9,755,203
2000	17,915	\$5,758,590	\$1,054,492	\$234,813	\$14,459,301
2001	14,063	\$4,740,028	\$1,456,106	\$321,040	\$17,743,223
2002	21,625	\$6,343,370	\$1,479,852	\$325,217	\$22,606,741
2003	1,273*	\$383,326*	\$903,332*	\$198,733*	\$22,074,541
2004	25,108*	\$7,427,825*	\$749,742*	\$146,970*	\$28,748,973
Totals	143,609	\$36,202,904	\$7,438,086	\$1,619,269	\$28,748,973

* 2003 numbers reflect a decrease in dollars collected and in the number of cases sent to the collection due to the implementation of a new computer system. Third quarter 2004, computer programs were complete and cases electronically forwarded to the collection agency.

Overall Collection Rate: 20.5%

Questions and Answers about How House Bill 2113 Would Work

What percentage of people found guilty in Wichita Municipal Court actually go delinquent?

This statistic is variable, depending on how "delinquent" is defined. In the recent past, the City of Wichita has employed a definition that has become more restrictive over time. Currently, Wichita Municipal Court accounts are sent to a collection agency when they are inactive for 45 days. This means no payment of any kind, despite payment agreements to the contrary. The delinquency rate under these terms stands at monthly rates ranging between 60% and 74% over the last three years.

What steps would Wichita Municipal Court use to collect delinquent fines?

The Wichita Municipal Court uses every effort to collect owed fines through voluntarily compliance before ever turning the cases over to collection. Converting cases to civil judgments would be the last and final action. First, the court works with offenders through the probation process and Court Compliance Unit. If someone can't pay the full amount all at once, payments can be made. Only when someone refuses to work out an arrangement for paying their debt is the case turned over to the collection agency. The final step for those offenders who continue to ignore their obligation and defy the Court would be civil judgment.

What type of civil judgment is being sought? Could the City attach liens on property?

The current state statute (K.S.A. 75-719) is silent on this issue, but House Bill 2113 would make these a Chapter 61 judgment. This is in line with the typical practice for other debt collection actions. A Chapter 61 action does not create a lien on real estate or any other property. The defendant would additionally have a right to assert most defenses and request a trial for that purpose by contesting the propriety of a garnishment or attachment. This protection is available in its current form through legislation passed in 2002.

What time period would Wichita Municipal Court use before going to collection agency?

Currently the Municipal Court turns delinquent cases over to collection at 45 days. The success in collecting the delinquent fines is much greater if the collection agency begins working the case at 45 days. **Waiting 180 days will make collections more difficult and could increase the number of cases which would ultimately be sent to the civil judgment collection process.**

What time period would Municipal Court use before going to civil judgment collection?

The current statute for districts courts is silent on this issue as well. The City proposes curing this concern by delaying civil judgment collection until the debt or restitution remains unpaid for more than 180 days. This will give the defendant ample opportunity to satisfy the judgment before civil collection is undertaken. This process is more defendant-friendly than the practice used in districts that currently make use of the authority granted at K.S.A. 75-719.

How will record of payment to the collection agency be coordinated with the court and police to prevent someone who has already paid from being arrested?

This potential would be eliminated if, as suggested above, there is complete separation between criminal enforcement and subsequent civil collection process. Once the criminal case is complete, with or without payment of the debts owed to the court and the restitution ordered, the defendant is no longer subject to arrest. Any suspension, once issued by the State, must be reinstated by the State. Driving prior to receipt of the reinstatement notice from the State is unlawful.

suspension of a drivers license and collection of a delinquent debt a double penal

This question mixes the concept of pre-judgment enforcement of the court's procedural requirements with post judgment enforcement of the court's final order entered after an evidentiary hearing. A defendant's driver's license is suspended by the Kansas Department of Revenue BEFORE CONVICTION at the request of any municipal or district court only for individuals who do not respond to the court dates set on the original ticket or by subsequent intermediary order of the court. Once the dilatory person responds to the Court, completes the court process and pays a \$50 reinstatement fee TO THE STATE, the driver's license is re-instated, whether the case is disposed of by a dismissal, an acquittal, or a finding of guilt. This suspension has nothing to do with guilt or innocence, but rather with recognition of and adherence to the authority of the Court. It is not a double penalty, as it is assessed only against those few persons who flaunt the authority of the Court. The suspension, and its attendant reinstatement fee, is a penalty for disobeying the rules of the state court, while a fine AFTER CONVICTION is the penalty for disobeying the rules of the road or the legislatively imposed rules governing social interaction (crimes). If a driver's license is suspended at this point, it is because the legislative body has determined that such a suspension is an appropriate punishment for the offense, and is properly imposed for the safety of the motoring public. We cannot simply suspend a license to induce payment. This would be only marginally effective, as demonstrated by the large number of drivers who choose to drive without a license, without insurance, or even having had their license suspended by prior court action. More importantly, this would also constitute an impermissible use of criminal sanctions affecting the defendant's liberty interests solely to enforce a purely financial obligation.

- Wichita Municipal Court is the largest limited jurisdiction court in the state. Wichita Municipal Court has 5 appointed judges and 23 pro-tem judges. Court sessions run five days a week from 8AM to 7PM.
- In any given year the Municipal Court judges see nearly 200,000 cases.
- In 2004, there were 33,526 new court cases and 114,238 citations filed. The Court issued 21,754 warrants and suspended 5517 driver's licenses for individuals who either failed to appear in court or failed to comply with a citation or criminal complaint.
- Every day about 1800 people appear in the Clerk's Office. The Clerk's Office receives about 1000 phone calls each day. Docket Clerks prepare approximately 800 cases each day for the court dockets while other clerks create court paperwork on about 750 new cases each week.
- Judges hear cases involving traffic and health infractions, misdemeanor cases involving Driving Under the Influence, Criminal cases such as petty theft, prostitution, drug violations and domestic violence.
- An environmental judge, working at neighborhood courts set up in various locations around the city, hears cases dealing with Health, Fire, and Central Inspection violations.
- A Court Administrator and a staff of 77 full-time and 3 part-time employees oversee Municipal Court.
- The Probation Office assists judges in defendant evaluation, prisoner monitoring, and probationer monitoring.
- Approximately 1362 clients report each month to the Probation Office. These numbers have decreased over the past few years due to the implementation of an evaluation tool that stratifies the reporting needs of defendants
- The Probation Office conducts approximately 194 risk/needs assessments each month.
- Probation Officers also conduct over 163 Pre-Sentence Investigations each month to aid the judges in sentencing. Additionally, the Probation Office manages defendants placed on Community Service as well as give information and instruction to individuals needing drug and alcohol education/treatment. They also process court-ordered restitution to victims.
- The annual budget for Wichita Municipal Court is approximately \$5,700,000.

Session of 2005

HOUSE BILL No. 2113

By Committee on Judiciary

1-20

AN ACT concerning municipal courts; relating to collection of fines and court costs.

Section 1. K.S.A. 12-4104 is hereby amended to read as follows:

Section 12-4104. (a) The municipal court of each city shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. Search warrants shall not issue out of a municipal court.

(b) The municipal courts in each city of the first class may exercise jurisdiction to enforce all debts owed to the court. In order to implement this authority, a municipal court must adopt court procedures by which the municipal court assumes for itself all duties and powers delineated for district courts in Article 20 of Chapter 61 of the Kansas Statutes Annotated. This authority, and the associated duties and powers, shall be limited to collection of debts owed to the court and restitution ordered by municipal court.

Section 2. K.S.A. 12-4106 is hereby amended to read as follows:

12-4106. (a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge, and may fine or imprison for contempt committed in court or for failure to obey process issued by such municipal judge, in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine all cases properly brought before such municipal judge to: grant continuances; sentence those found guilty to a

fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; ~~and~~ discharge accused persons- , *and enforce debts owed to the court as authorized by this act.*

(c) The municipal judge shall maintain a docket in which every cause commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for class A and B misdemeanors under Kansas criminal statutes is forwarded to the Kansas Bureau of Investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within 30 days of final disposition.

Section 3. K.S.A. 12-4108 is hereby amended to read as follows:

12-4108. (a) The governing body of each city may provide for the office of clerk of the municipal court. The municipal judge shall appoint such clerk or if no clerk is provided for, the judge shall also serve as clerk. The clerk shall issue all process of the court, administer oaths, file

and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court.

(b) The clerk of the municipal court, or the municipal judge if no clerk is appointed, within 10 days after selection, and before entering upon the duties of office, shall execute to the city such bond as the governing body may require, which shall be approved by the governing body, and filed in the office of the city clerk, conditioned for the faithful performance of the duties required of such clerk by law, and for the faithful application and payment of all moneys that may come into such clerk's hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(b)(c) The clerk of the municipal court is authorized to enter into contracts in accordance with this section for collection services for debts owed to the court or restitution owed under an order of restitution. The cost of collections shall be paid by the defendant as an additional court cost in all criminal and traffic cases where the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting agent pursuant to this section. The cost of collection shall be deemed an administrative fee to pay the actual costs of collection made necessary by the defendant's failure to pay the court a debt or restitution. Any fine, penalty, or any part of any fine or penalty assessed by a municipal court which remains unpaid shall be a debt due and owing to the municipality. Any such debts remaining unpaid in excess of 180 days after imposition of sentence, shall be a judgment against the defendant which may be enforced as judgments for payment of money in civil cases.

(e) (d) Each contract entered pursuant to this section shall provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the

cost of collection as provided in this section, and shall not exceed 33 % of the amount collected.

The cost of collection shall be paid from the amount collected, but shall not be deducted from the debts owed to courts or restitution.

~~(d)~~(e) On and after July 1, 2005, any city of the first class is authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding amounts owed under such order of restitution.

~~(e)~~(f) Contracts entered as provided in this section shall provide for the payment of any amounts collected to the clerk of the municipal court for the court in which the debt being collected originated, after first deducting the collection fee. In accounting for amounts collected from any person pursuant to this section, the municipal court clerk shall credit the person's amount owed in the amount of the net proceeds collected and shall not reduce the amount owed by any person by that portion of any payment which constitutes the cost of collection pursuant to this section.

~~(f)~~(g) With the appropriate cost of collection paid to the contracting agent as agreed upon in the contract, the clerk shall then distribute amounts collected as provided in this section as follows: (1) When collection services are utilized pursuant to subsection (b), all amounts shall be applied against the debts owed to the court as specified in the original judgment creating the debt; or

(2) when collection services are utilized pursuant to subsection (d), all amounts shall be paid to the beneficiary under an order of restitution designated to receive such restitution, except that where the beneficiary has received recovery from the Kansas crime victims compensation board and such board has subrogation rights pursuant to K.S.A. 74-7312, and amendments thereto, all amounts shall be paid to the board until the board's subrogation lien is satisfied.

~~(g)~~(h) Whenever collection services are being utilized against the same debtor pursuant to both subparagraphs ~~(f)~~ (g)(1) and ~~(f)~~ (g)(2), any amounts collected by any contracting agent shall be first applied to satisfy debts owed to the court as provided under subsection ~~(f)~~(g)(1). Upon satisfaction of all such debts, amounts received from the same debtor shall then be applied to satisfy debts owed to pursuant to an order of restitution as provided under subsection ~~(f)~~(g)(2).

~~(h)~~(i) Any collection for debt or restitution may be enforced pursuant to the code of civil procedure for limited actions.

~~(i)~~(j) The collection services authorized by this section shall not be utilized until the debt or restitution remains unpaid for more than ~~180~~ 45 days.

Section 4. K.S.A. 12-4109 is hereby amended to read as follows:

12-4109. Each city shall provide at the expense of the city a suitable courtroom for the municipal court, together with all necessary supplies and records. Municipal court shall be held at such time and places designated by ordinance. *If the court of any city of the first class elects to utilize the civil procedure and remedies authorized by this act for collection of debts owed to the court, a record of such proceedings shall be maintained.*

Section 5. K.S.A. 12-4112 is hereby amended to read as follows:

12-4112. No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in K.S.A. 12-4411 and any amendments thereto, for the assessment required by K.S.A. 41-4116 for the training, testing and continuing judicial education of municipal judges, *court costs created under city home rule authority, and assessments for debts owed to the court.*

Section 6. K.S.A. 12-4113 is hereby amended to read as follows:

12-4113. (a) "Appearance bond" means an undertaking, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions of the undertaking.

(b) "Accused person" means a person, corporation or other legal entity accused by a complaint of the violation of a city ordinance.

(c) "Arraignment" means the formal act of calling the person accused of violating an ordinance before the municipal court to inform the person of the offense with which the person is charged, to ask the person whether the person is guilty or not guilty and, if guilty, to impose sentence.

(d) "Arrest" means the taking of a person into custody in order that the person will appear to answer for the violation of an ordinance. The giving of a notice to appear is not an arrest.

(e) "Bail" is the security given for the purpose of insuring compliance with the terms of an appearance bond.

(f) "Beneficiary under an order of restitution" means the victim or victims of a crime to whom a municipal court has ordered restitution be paid.

~~(f)~~(g) "City attorney" means any attorney who represents the city in the prosecution of an accused person for the violation of a city ordinance.

~~(g)~~ (h) "Complaint" means a sworn written statement, or a written statement by a law enforcement officer, of the essential facts constituting a violation of an ordinance

(i) "Contracting agent" means a person, firm, agency or other entity who contracts as provided in this act to provide collection services.

(j) "Cost of collection" means the fee specified in contracts as provided in this act to be paid to or retained by a contracting agent for collection services. Cost of collection also includes any filing fee required under K.S.A. 60-4303, and amendments thereto, or administrative costs prescribed by the clerk of the municipal court.

~~(h)~~(k) "Custody" means the restraint of a person pursuant to an arrest.

(l) "Debts owed to the court" means any assessment of court costs, fines, fees or moneys expended by the municipality in providing counsel and other defense services to indigent defendants or other charges which a municipal court judge has ordered to be paid to the court, and which remain unpaid in whole or in part. Such debts include any interest or penalties on such unpaid amounts as provided for in the judgment or by law and the cost of collection when collection services of a contracting agent as provided in this section are utilized.

~~(i)~~(m) "Detention" means the temporary restraint of a person by a law enforcement officer.

~~(j)~~(n) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order and to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof.

~~(k)~~(o) "Notice to appear" is a written notice to a person accused by a complaint of having violated an ordinance of a city to appear at a stated time and place to answer to the charge of the complaint.

~~(l)~~(p) "Subpoena" is a process issued by the court to cause a witness to appear and give testimony at a time and place therein specified.

~~(m)~~(q) "Ordinance traffic infraction" is a violation of an ordinance that proscribes or requires the same behavior as that proscribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8- 2118 and amendments thereto.

~~(n)~~(r) "Warrant" is a written order made by a municipal judge directed to any law enforcement officer commanding the officer to arrest the person named or described in it.

~~(o)~~(s) "Ordinance cigarette or tobacco infraction" is a violation of an ordinance that proscribes the same behavior as proscribed by subsection (m) or (n) of K.S.A. 79-3321 and amendments thereto.

Section 7. K.S.A. 12-4601 is hereby amended to read as follows:

12-4601. (a) An appeal may be taken *from a conviction of a municipal ordinance* to the district court in the county in which said municipal court is located:

- (a) By the accused person in all cases; and
- (b) By the city upon questions of law.

The appeal shall stay all further proceedings upon the judgment appealed from.

(b) An appeal may be taken from the civil remedies utilized by the municipal court to collect debts owed to the court to the district court in the county in which said municipal court is located as provided in Article 21 of Chapter 61 of the Kansas Statutes Annotated. For purposes of such appeal, the municipal court judgment shall be considered to be a judgment by a district magistrate judge.

Section 8. K.S.A. 60.2310 is hereby amended to read as follows:

60-2310.1.1. (a) Definitions. As used in this act and the acts of which this act is amendatory, unless the context otherwise requires, the following words and phrases shall have

the meanings respectively ascribed to them:

(1) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise;

(2) "disposable earnings" means that part of the earnings of any individual remaining after the deduction from such earnings of any amounts required by law to be withheld;

(3) "wage garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt; and

(4) "federal minimum hourly wage" means that wage prescribed by subsection (a)(1) of section 6 of the federal fair labor standards act of 1938, and any amendments thereto.

(b) Restriction on wage garnishment. Subject to the provisions of subsection (e), only the aggregate disposable earnings of an individual may be subjected to wage garnishment. The maximum part of such earnings of any wage earning individual which may be subjected to wage garnishment for any workweek or multiple thereof may not exceed the lesser of: (1) Twenty-five percent of the individual's aggregate disposable earnings for that workweek or multiple thereof; (2) the amount by which the individual's aggregate disposable earnings for that workweek or multiple thereof exceed an amount equal to 30 times the federal minimum hourly wage, or equivalent multiple thereof for such longer period; or (3) the amount of the plaintiff's claim as found in the order for garnishment. No one creditor may issue more than one garnishment against the earnings of the same judgment debtor during any one 30-day period, but the court shall allow the creditor to file amendments or corrections of names or addresses of any party to the order of garnishment at any time. In answering such order the garnishee-employer shall withhold from all earnings of the judgment-debtor for any pay period or periods ending during such 30-day period an amount or amounts as are allowed and required by law. Nothing in

this act shall be construed as charging the plaintiff in any garnishment action with the knowledge of the amount of any defendant's earnings prior to the commencement of such garnishment action.

(c) Sickness preventing work. If any debtor is prevented from working at the debtor's regular trade, profession or calling for any period greater than two weeks because of illness of the debtor or any member of the family of the debtor, and this fact is shown by the affidavit of the debtor, the provisions of this section shall not be invoked against any such debtor until after the expiration of two months after recovery from such illness.

(d) Assignment of account. If any person, firm or corporation sells or assigns an account to any person or collecting agency, that person, firm or corporation or their assignees shall not have or be entitled to the benefits of wage garnishment. The provision of this subsection shall not apply to the following:

(1) Assignments of support rights to the secretary of social and rehabilitation services pursuant to K.S.A. 39-709 and 39-756, and amendments thereto, and support enforcement actions conducted by court trustees pursuant to K.S.A. 23-492, et seq., and amendments thereto;

(2) support rights which have been assigned to any other state pursuant to title IV-D of the federal social security act (42 U.S.C. 651 et seq.);

(3) assignments of accounts receivable or taxes receivable to the director of accounts and reports made under K.S.A. 75-3728b and amendments thereto; or

(4) collections pursuant to contracts entered into in accordance with K.S.A. 75-719 and amendments thereto involving the collection of restitution or debts to district courts.

(5) collections pursuant to contracts entered into in accordance with K.S.A. 12-4104, et seq. and amendments thereto involving the collection of restitution or debts owed to municipal courts.

(e) Exceptions to restrictions on wage garnishment. The restrictions on the amount of disposable earnings subject to wage garnishment as provided in subsection (b) shall not apply in the following instances:

(1) Any order of any court for the support of any person, including any order for support in the form of alimony, but the foregoing shall be subject to the restriction provided for in subsection (g);

(2) any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act; and

(3) any debt due for any state or federal tax.

(f) Prohibition on courts. No court of this state may make, execute or enforce any order or process in violation of this section.

(g) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) If the individual is supporting a spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50% of the individual's disposable earnings for that week;

(2) if the individual is not supporting a spouse or dependent child described in clause (1), 60% of such individual's disposable earnings for that week; and

(3) with respect to the disposable earnings of any individual for any workweek, the 50% specified in clause (1) shall be 55% and the 60% specified in clause (2) shall be 65%, if such earnings are subject to garnishment to enforce a support order for a period which is prior to the twelve-week period which ends with the beginning of such workweek.

Section 9. The provisions of this act shall be part of and supplemental to the Kansas Code of Procedure for municipal courts.

Section 10. K.S.A. 12-4104, 12-4106, 12-4108, 12-4109, 12-4112, 12-4113, 12-4601 and 60-2310 are hereby repealed.

Section 11. This act shall take effect and be in force from and after its publication in the statute book.



League of Kansas Municipalities

TO: House Judiciary Committee

FROM: Sandy Jacquot, Director of Law/General Counsel

DATE: February 1, 2005

RE: HB 2113

I want to thank you on behalf of the League of Kansas Municipalities for the opportunity to testify in favor of HB 2113. This bill would convert delinquent municipal court fines to civil judgments and assess the cost of collection to the defendant when the court contracts with a collection agency. In addition, the bill would allow the victim to which restitution had been ordered to use the contracting collection agency to attempt to collect any unpaid restitution.

For some of our larger municipal courts, collection of delinquent fines and court costs is an ongoing concern. Contracting with a collection agency is often the most efficient means of collecting fines and court costs, but the end result is that the city bears the cost of collection. This bill would shift the burden to the defendant who has chosen not to pay the fine rather than the taxpayers of the city at large.

There has been some opposition to this bill in the past, because of various views held about the function of municipal courts. The simple fact is that these fines are due and owing to the municipality, they have been lawfully imposed and this bill will aid cities in the collection of such fines. The League supports HB 2113 and urges the committee to report the bill favorably for passage.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

House Judiciary Committee

Testimony on HB 2113

Kathy Porter
Office of Judicial Administration

The Office of Judicial Administration understands the city of Wichita's intent to attempt to increase collections from persons who have failed to pay traffic fines and other debts owed to municipal court. This is an issue the Judicial Branch deals with in trying to increase collections to benefit the State General Fund and other funds receiving portions of district court fines and docket fees. Our concern is that the language of Section 1(h), which provides that "[a]ny collection for debt or restitution may be enforced pursuant to the code of civil procedure for limited actions," would not accomplish that intent, and that it would cause unintended consequences for the Kansas district courts.

The city's stated intent is to authorize the Wichita municipal court to use the procedures found in the Code of Civil Procedure for Limited Actions, such as garnishments and hearings in aid of execution, to assist in collecting unpaid debt. All of those processes and proceedings would take place in municipal court and would involve municipal court employees, rather than district court employees. The concern is that the current language of HB 2113 would not accomplish the city's intent. If the enforcement is "pursuant to the code of civil procedure for limited actions," as the bill states, then the district court, rather than municipal court, is involved. Throughout the Code of Civil Procedure for Limited Actions are references to the district court. For example, K.S.A. 2004 Supp. 61-2902 provides that "[a]n action pursuant to the code of civil procedure for limited actions is commenced at the time of: (1) Filing a petition **with the clerk of the district court.**" (Emphasis added.)

If municipal courts were allowed to use the Code of Civil Procedure for Limited Actions, literally thousands of garnishments, motions for hearings in aid of executions, and other motions and proceedings could be filed with district courts across the state in an effort to collect debts owed to municipal courts. The district courts simply are not staffed to handle this flood of incoming cases.

Attached is an amended version of HB 2113 that would accomplish the city's stated intent. The amendment would allow municipal courts to adopt proceedings in accord with the Code of Civil Procedure for Limited Actions. Those proceedings would then take place within municipal courts, rather than district courts.

Thank you for the opportunity to address this issue.

House Judiciary
2-1-05
Attachment 4

HOUSE BILL No. 2113

By Committee on Judiciary

1-20

9 AN ACT concerning municipal courts; relating to collection of fines and
10 court costs.

11

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

13 Section 1. (a) As used in this section: (1) "Beneficiary under an order
14 of restitution" means the victim or victims of a crime to whom a municipal
15 court has ordered restitution be paid.

16 (2) "Contracting agent" means a person, firm, agency or other entity
17 who contracts as provided in this section to provide collection services.

18 (3) "Cost of collection" means the fee specified in contracts as pro-
19 vided in this section to be paid to or retained by a contracting agent for
20 collection services. Cost of collection also includes any filing fee required
21 under K.S.A. 60-4303, and amendments thereto, or administrative costs
22 prescribed by the clerk of the municipal court.

23 (4) "Debts owed to the court" means any assessment of court costs,
24 fines, fees or moneys expended by the municipality in providing counsel
25 and other defense services to indigent defendants or other charges which
26 a municipal court judge has ordered to be paid to the court, and which
27 remain unpaid in whole or in part. Such debts include any interest or
28 penalties on such unpaid amounts as provided for in the judgment or by
29 law and the cost of collection when collection services of a contracting
30 agent as provided in this section are utilized.

31 (b) The clerk of the municipal court is authorized to enter into con-
32 tracts in accordance with this section for collection services for debts
33 owed to the court or restitution owed under an order of restitution. The
34 cost of collections shall be paid by the defendant as an additional court
35 cost in all criminal and traffic cases where the defendant fails to pay any
36 amount ordered by the court and the court utilizes the services of a con-
37 tracting agent pursuant to this section. The cost of collection shall be
38 deemed an administrative fee to pay the actual costs of collection made
39 necessary by the defendant's failure to pay the court a debt or restitution.
40 Any fine, penalty, or any part of any fine or penalty assessed by a munic-
41 ipal court which remains unpaid shall be a debt due and owing to the
42 municipality. Such debts shall be a judgment against the defendant which
43 may be enforced as judgments for payment of money in civil cases.

in accord with procedures
established pursuant to
subsection 4(h).

1 (c) Each contract entered pursuant to this section shall provide for a
2 fee to be paid to or retained by the contracting agent for collection serv-
3 ices. Such fee shall be designated as the cost of collection as provided in
4 this section, and shall not exceed 33% of the amount collected. The cost
5 of collection shall be paid from the amount collected, but shall not be
6 deducted from the debts owed to courts or restitution.

7 (d) On and after July 1, 2005, any beneficiary, under an order of
8 restitution entered by a court, is authorized to utilize the collection serv-
9 ices of contracting agents pursuant to this section for the purpose of
10 collecting all outstanding amounts owed under such order of restitution.

11 (e) Contracts entered as provided in this section shall provide for the
12 payment of any amounts collected to the clerk of the municipal court for
13 the court in which the debt being collected originated, after first de-
14 ducting the collection fee. In accounting for amounts collected from any
15 person pursuant to this section, the municipal court clerk shall credit the
16 person's amount owed in the amount of the net proceeds collected and
17 shall not reduce the amount owed by any person by that portion of any
18 payment which constitutes the cost of collection pursuant to this section.

19 (f) With the appropriate cost of collection paid to the contracting
20 agent as agreed upon in the contract, the clerk shall then distribute
21 amounts collected as provided in this section as follows: (1) When collec-
22 tion services are utilized pursuant to subsection (b), all amounts shall be
23 applied against the debts owed to the court as specified in the original
24 judgment creating the debt; or

25 (2) when collection services are utilized pursuant to subsection (d),
26 all amounts shall be paid to the beneficiary under an order of restitution
27 designated to receive such restitution, except that where the beneficiary
28 has received recovery from the Kansas crime victims compensation board
29 and such board has subrogation rights pursuant to K.S.A. 74-7312, and
30 amendments thereto, all amounts shall be paid to the board until the
31 board's subrogation lien is satisfied.

32 (g) Whenever collection services are being utilized against the same
33 debtor pursuant to both subparagraphs (f)(1) and (f)(2), any amounts
34 collected by any contracting agent shall be first applied to satisfy debts
35 owed to courts as provided under subsection (f)(1). Upon satisfaction of
36 all such debts, amounts received from the same debtor shall then be
37 applied to satisfy debts owed to pursuant to an order of restitution as
38 provided under subsection (f)(2).

39 (h) Any collection for debt or restitution may be enforced pursuant
40 to the code of civil procedure for limited actions.

41 (i) The collection services authorized by this section shall not be util-
42 ized until the debt or restitution remains unpaid for more than 180 days.

43 (j) The provisions of this act shall be part of and supplemental to the

procedures adopted
by a municipal
court in accord with

- 1 Kansas code of procedure for municipal courts.
- 2 Sec. 2. This act shall take effect and be in force from and after its
- 3 publication in the statute book.



Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director 913.573.5565
Don Denney, Media Relations Specialist 913.573.5544

House Bill 2113 Delinquent Municipal Court Fines

Delivered to
House Judiciary Committee
February 1, 2005

The Unified Government of Wyandotte County/Kansas City, Kansas strongly supports House Bill 2113. This legislation will help all Municipal Courts in Kansas more effectively deal with the growing problem of delinquent fines. The number of people who fail or outright refuse to pay fines after being found guilty of an offense in Municipal Courts has reached alarming and unacceptable levels.

HB 2113 gives Municipal Courts the same legal ability to collect fines that District Courts already have. District Courts already have the authority to convert delinquent debts into civil judgments and require delinquent defendants to pay the cost of the collection fee as well as the fine.

While Municipal Courts do not exist to produce revenue, there is a significant financial component to this problem. Given cuts in state funding and pressure to not raise taxes, giving local governments the tools needed to collect more of the money they are already owed, is a significant solution.

But more importantly, there is a critical law and order issue here. If people realize, as many already have, that there is no real consequence for breaking the law because they can get away with not paying the fines, then what incentive is there to follow the law in the first place?

There is also a significant fairness and equity issue. It is grossly unfair for some people to accept their punishment and pay their fine, while others who are found guilty thumb their noses at the court and their fellow citizens and get away with not accepting their punishment and not paying their fine.

In the name of law and order, in the name of fairness and equity and in the name of financial responsibility, The Unified Government urges you to approve House Bill 2113.

HEIN LAW FIRM, CHARTERED

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Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

**Testimony re: HB 2152
House Judiciary Committee
Presented by Ronald R. Hein
on behalf of
R. J. Reynolds Tobacco Company
February 1, 2005**

In the 2003 session, the Kansas legislature approved legislation relating to the appeal (or supersedeas) bond that placed monetary limits on the amount of bond that was required to be posted to proceed with an appeal in cases involving tobacco manufacturers who were signatories to the Master Settlement Agreement (“MSA”) or a successor of one of these signatories. The bond cap of \$25 million set out in that law was designed to help protect the hundreds of millions of dollars that are paid each year to the 46 states who entered into the MSA. The legislation is designed to help protect those funds by ensuring that such signatories are not forced into bankruptcy by exorbitant appeal bonds.

I requested introduction of HB 2152 on behalf of R.J. Reynolds Tobacco Company to make the language clear that affiliates of signatories to the MSA are covered by this law as well. Affiliates of tobacco signatories to the MSA have been sued at the same time or in lieu of the MSA signatories. We believe that the bond cap should be the same for all of these parties. To give an example of why we seek this legislative clarification, if the parent company (affiliate) of an MSA signatory is sued, and is unable to post the appeal bond, their assets (including the assets of the signatory manufacturer) could be attached and or liquidated to pay the bond. This could result in the MSA signatory, being unable, either temporarily or possibly permanently being unable to make their regular MSA payments to Kansas and the other states MSA states. This legislation is designed to extend the appeal bond protection to the affiliates so as to meet the justification for the original law passed in 2003.

Ten of the thirteen states which have passed an appeal bond cap for signatories to the MSA have applied the cap to affiliates as well. They have recognized that the state’s MSA revenue is not fully protected unless affiliates are also covered.

Lastly, Mr. Chairman, if there is a questions about the term “affiliate” in HB 2152, we would have no objection to the legislation being amended to reference the definition of affiliate set out in K.S.A. 50-6a02, a copy of which is attached to my testimony.

On behalf of RJRT, I respectfully request the Committee approve HB 2152 with the recommendation that it be passed. Thank you for permitting me to testify, and I would be happy to yield to any questions.

50-6a02

1. Chapter 50.--UNFAIR TRADE AND CONSUMER PROTECTION

Article 6a.--REQUIREMENTS FOR SALE OF CIGARETTES

50-6a02. Definitions. As used in this act:

.....

(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

.....

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919 SOUTH KANSAS AVENUE

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**Testimony of Kathy Damron
On behalf of Philip Morris, USA**
Before the Kansas House Judiciary Committee

In Support of House Bill No. 2152
Tuesday, February 1, 2005

In 2003, The Kansas legislature passed legislation limiting the appeal bond that would have to be posted in a case involving a tobacco manufacturer that has signed the Master Settlement Agreement (“MSA”) or a successor of one of these tobacco companies. This Legislature took action in an effort to preserve the MSA. The MSA delivers hundreds of millions of dollars every year to Kansas and the other 45 states that are parties to the MSA. The \$25 million bond cap in the 2003 legislation protects that revenue, by ensuring that tobacco manufacturers that have signed the MSA are not forced into bankruptcy by exorbitant appeal bonds. The State of Illinois had no such cap and an appeal bond of more than 12 billion dollars was under consideration.

House Bill No. 2152 clarifies that affiliates (who are companies related to tobacco companies that have signed the MSA) are also covered by the bond cap, along with tobacco manufacturers that have signed the MSA and their successors. Affiliates of MSA companies are often sued along with the MSA signatories, and when that happens, they should be covered by the same bonding requirement. In addition, if a parent company of a tobacco manufacturer that has signed the MSA is sued and cannot post an appeal bond, the parent company’s assets – including the assets of the tobacco company – could be

seized and sold. The result would be that an MSA signatory might be impeded, at least temporarily, from making its MSA payments to Kansas and the other states that are parties to the MSA. This legislation will prevent that from occurring.

~~Thirteen~~ ^{Thirty} states have, like Kansas adopted a bond cap that applies to tobacco companies that have signed the Master Settlement Agreement. Of these states, ten states also apply the bond cap to affiliates of signatories of the MSA, in recognition of the fact that the state's MSA revenue is not fully protected unless these entities are also covered.

For these reasons, I urge the Committee to recommend that the legislature adopt House Bill No. 2152. I would be happy to address any questions you might have about the bill.



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

To: Chairman O'Neal and Members of the House Committee on Judiciary
From: Dan Hejzmanek on behalf of the Kansas Trial Lawyers Association
Date: February 1, 2005
Re: **HB 2152**

Chairman O'Neal and members of the House Committee on Judiciary, I appear before you today on behalf of the Kansas Trial Lawyers Association. I am a Kansas attorney and member of KTLA. KTLA is a statewide, nonprofit organization of lawyers that represents consumers and advocates for the safety of families and the preservation of the civil justice system. We appreciate the opportunity to present written and oral testimony on HB 2152.

When the underlying law was passed in 2003, the Legislature gave special consideration to signatories of the master settlement agreement. The term "signatories"—the beneficiaries to the limits on liability and appeal bond caps—referred to tobacco companies.

HB 2152 appears to expand the list of entities that benefit from the caps on appeal bonds to affiliates of signatories. We do not believe it was the Legislature's intent that the benefits of the underlying law be extended to affiliates. We note the following from the current law expressing the intent of the Legislature:

K.S.A. 50-6a01 (e). On November 23, 1998, **leading United States tobacco product manufacturers** entered into a settlement agreement, entitled the "master settlement agreement," with the state. The master settlement agreement obligates **these manufacturers**, in return for a release of past, present and certain future claims against them as described therein, to pay substantial funds to the state (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

In addition, the definition of "master settlement agreement" at K.S.A 50-6a02(e) means "the settlement agreement (and related documents entered into on November 23, 1998, by the state **and leading United States tobacco product manufacturers.**" Also K.S.A 50-6a02(i)(3) "tobacco product manufacturer" specifically excludes affiliates unless they fit the definition of a "tobacco product manufacturer". We believe these definitions,

Terry Humphrey, Executive Director

coupled with the expressed intent of the Legislature, indicate that the provisions of the master settlement agreement were intended to apply only to the tobacco companies that are signatories, and that only such signatories could enjoy the provisions of 2004 Supp. 50-6a05.

We believe that HB 2152 extends favorable protections to entities beyond the scope of the signatories to the master settlement agreement and respectfully request that the Committee oppose the bill. However, if HB 2152 advances, we believe that the provisions of 2004 Supp. 50-6a05 related to appeal bond caps must be strictly limited to tobacco manufacturers. In many cases, affiliates of the tobacco companies may be corporations whose business has nothing to do with tobacco. We believe that the bill as currently written would allow the appeal bond cap to apply to suits against affiliates in cases that are unrelated to the tobacco litigation or causes of action not related to the master settlement agreement. We believe that this outcome would go far beyond the scope of the Legislature's intent in passing the underlying law.

KTLA supports limiting the caps on appeal bonds to the signatories of the master settlement agreement and therefore we do not believe that HB 2152 is necessary. We respectfully submit the attached amendment that clarifies that the affiliates of signatories to the master settlement agreement must be limited to tobacco product manufacturers, and if HB 2152 advances we ask that you adopt our amendment.

Thank you for the opportunity to testify and offer the committee our amendment.

Session of 2005

HOUSE BILL No. 2152

AN ACT concerning the master settlement agreement for tobacco products; relating to the appeal bond; amending K.S.A. 2004 Supp. 50-6a05 and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 50-6a05 is hereby amended to read as follows: 50-6a05. (a) The appeal bond that an appellant in civil litigation under any legal theory, involving a signatory or, a successor to a signatory ***or a tobacco product manufacturer who is an affiliate of a signatory*** of the master settlement agreement, as defined in K.S.A. 2004 Supp. 50-6a02, and amendments thereto, may be required to post to stay execution on a judgment during an appeal or discretionary review shall be set in accordance with existing law and court rules, except that in no case shall an appeal bond exceed \$25,000,000, regardless of the total value of the judgment.

(b) If it is proved by a preponderance of the evidence that the appellant for whom the bond has been limited pursuant to this section is intentionally dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding payment of the judgment, the court shall enter such orders as are necessary to prevent the dissipation or diversion of assets.

(c) The amendment to this section shall apply to all cases pending or filed on and after July 1, 2005.

Sec. 2. K.S.A. 2004 Supp. 50-6a05 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Amendment proposed by the Kansas Trial Lawyers Association
House Judiciary Committee
2/1/05