



March 19, 2013

To: Senate Committee on Judiciary

From: Kathleen A. Taylor, Kansas Bankers Association

Re: HB 2163: Non-wage Garnishment Process

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of **HB 2163**, which would make an adjustment to the process of non-wage garnishments. Specifically, the bill would amend K.S.A. 2012 Supp. 60-736 and K.S.A. 2012 Supp. 61-3509, to provide that when the garnishee (i.e., the bank) does not have any assets of the judgment debtor, the garnishee need not send an Answer to the judgment debtor. In addition, a technical amendment is suggested, to require the garnishee to send the Answer to the judgment creditor's attorney if one is listed on the Order, and if not, to the judgment creditor.

Some committee members will recall that last year, the 2012 Legislature adopted a change in the procedure for non-wage garnishments that required the garnishee to send the Answer to the garnishing creditor and the garnished debtor. Prior to that change, the Answer had been sent to the Court.

I received a call from a banker several months after this change in the law went into effect, stating that this new procedure was fine, except when the bank received a garnishment for an individual that did not have an account at the bank. The law still requires the bank to send the garnished debtor an Answer – in this case, stating that the garnishee/bank did not have any funds owned by this individual. The experience of the banker was that this created confusion on the part of the garnished debtor, which prompted a phone call to the bank questioning why the bank was sending this information, and sometimes, resulted in the individual being garnished becoming angry that this information was now known by the garnishee/bank.

We believe that the amendment we are asking for will resolve this problem – by simply stating that a copy of the Answer need not be sent to the garnished debtor if there are no accounts owned by that individual at the garnishee/bank. An Answer will still go to the garnishing creditor's attorney or the garnishing creditor.

Which leads us to the second change we are requesting in this bill: that if the garnishing creditor's attorney is listed on the Answer, that the Answer be sent to the attorney, and if not, to the garnishing creditor. This request for change came to us from the collection attorneys, and we believe it to be a friendly amendment.

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Prior to introduction of the bill draft, we did share the bill draft with the court clerks' and with the collection attorneys' representatives as other interested parties. We received positive feedback from both groups.

In conclusion, we believe these amendments to be noncontroversial in nature, and an improvement to the process put in place last year. Thank you for your time, and the KBA would respectfully request that when the Committee considers **HB 2163**, that it act favorably for its passage.