

Approved: 2-24-93
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on February 19, 1993 in Room 423-S of the Capitol.

All members were present except: Quorum was present.

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee: Alan Alderson, Western Retail Implement and Hdw. Assn.
Jack Selzer, Western Retail Implement and Hdw. Assn.
Chuck Stones, Kansas Bankers Assn.
Mike Torrey, Kansas Fertilizer & Chemical Assn.

Others attending: See attached list

The Chairman opened the hearing on SB 305 - concerning liens on personal property; relating to leased equipment. He called on Mr. Alderson.

Alan Alderson said they had requested the bill and he introduced Jack Selzer, counsel, for the Western Retail Implement and Hardware Association. He pointed out a technical amendment to be made in the bill.

Jack Selzer said their equipment dealers had requested their trade association sponsor legislation which would provide Kansas implement dealers the same rights and protection that grain harvesting custom cutters have for payment due the dealers on farm equipment leased to plant and harvest grain crops (Attachment 1).

Chuck Stones opposed the measure as the banking industry has serious policy concerns about the measure (Attachment 2).

Mike Torrey said the organizations that he represent thought that if the statutes were changed to included leasing equipment, that all the people with agriculture input should be included (Attachment 3).

The hearing was closed. No action was taken on the bill at this time.

A motion was made by Senator Frahm to adopt the minutes of February 17. Senator Steffes seconded. Motion carried.

The next meeting is scheduled for February 22, 1993. The meeting adjourned at 10:29 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: 2-19-93

[illegible]

TESTIMONY FOR SENATE BILL NO. 305

Jack Selzer, counsel for the Western Retail Implement and Hardware Association, prepared this testimony.

Kansas farm equipment dealers requested their trade association, Western Retail Implement and Hardware Association, to sponsor legislation which provide these Kansas implement dealers the same rights and protection that grain harvesting custom cutters have for payment due the dealers on farm equipment leased to plant and harvest grain crops.

Senate Bill 305 merely amends Kansas Statute 58-203 to include leased equipment "used for the purpose of planting, threshing or harvesting grain or grain crops or planting, shucking, husking or gathering corn." This amendment would assure that Kansas farm equipment dealers would receive payment from crop proceeds for amounts due them for equipment leased by farmers to plant and harvest grain and corn.

The trade association represents the interest of over 600 equipment dealers in the states of Kansas and Missouri and 900 hardware dealers located in the midwest. In Kansas, there are approximately 200 hardware dealers and 340 equipment dealers who are members of the association. Every county in Kansas has either a hardware dealer or equipment dealer who is a member of the association.

Before amendment, Kansas statute 58-203 provides that "a person operating a threshing machine" receives a lien on the crop. Under the statute, this lien has preference over any prior security interest or encumbrance. After amendment, this statute provides that a person who leases equipment for the planting and harvesting also has a lien on the crop.

Why should you vote to amend this statute? First, your Kansas farm equipment dealers want you to. You will be hearing from them. Second, the amendment makes good sense and is fair. It makes sense because now an out of-state custom cutter is assured of payment while your Kansas dealer who leases equipment for harvest is not. Both furnish equipment for the harvest. Why, I ask you, should they not be treated the same? It is fair because the lien covers but a small sliver of the harvested crop value. Indeed, it is the same sliver of value that the implement dealer added to the unharvested crop.

As farm equipment becomes more expensive and leasing business grows, payment protection such as this will be necessary to assure the efficient harvesting of crops. Without this assurance, many dealers now require advanced pre-payment of the lease obligation which is a hurdle for cash strapped farmers. This amendment should make it easier for Kansas farmers to lease equipment from Kansas farm equipment dealers.

*Senate Ag
2-19-93
attachment 1*

The Kansas Bankers Association

1500 Merchants National Bank Bldg.

Topeka, KS 66612

913-232-3444 FAX 913-232-3484

2-19-93

TO: Senate Agriculture Committee
FROM: Chuck Stones, Director of Research

RE: SB 305

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the Committee to discuss the provisions of SB 305. SB 305 would expand KSA 58-203, commonly referred to as the agisters lien, to include those engaged in the business of leasing equipment used for planting or harvesting grain crops or corn. This lien would have priority over any prior security interest.

If a bank, or any other creditor has a security interest in harvested crops or grain, that security interest should not be subsequently diluted by anyone or anything that is out of the original secured party's control. The party that takes the first lien has absolutely no protection or any choice over losing those lien rights in the event some party steps in later to supersede those rights. We must realize that the availability of credit may be impaired by this or any other priority lien rights given to subsequent providers of credit or services. When the potential exists for the original secured party to lose that position later on without any choice or control over the situation, the original provider of credit will be more careful when extending credit.

The banking industry has serious policy concerns about this measure. These rights and lien preferences have been granted very carefully by the Legislature over many years because of the potential impact which they can have on the availability of credit. The decision this Committee must address in these situations is whether the subsequent lien rights extended to a certain group can have an adverse impact on the debtor/creditor relationship. SB 305 raises this policy question.

The Kansas Bankers Association respectfully urges you to vote NO on SB 305



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2-19-93
attachment 2*



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

816 S.W. Tyler St. P.O. Box 1517 A/C 913-234-0463 Topeka, Kansas 66601-1517

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE
SENATE AGRICULTURE COMMITTEE
SEN. DAVID CORBIN, CHAIRMAN
REGARDING S.B. 305
FEBRUARY 19, 1993

Mr. Chairman and Members of the Committee, I am Michael Torrey, Director of Legislative and Regulatory Affairs for the Kansas Fertilizer and Chemical Association. KFCA is the trade association of our state's agrichemical and fertilizer industry. Our 600 members include primarily retailers, but also distribution firms and manufacturer representatives and others which serve the industry. We appreciate the opportunity today to express our concerns for S.B. 305, which provides for a statutory lien for those engaged in the business of leasing equipment for the purpose of planting, threshing or harvesting.

KFCA members are primarily involved in the ag input business. This means we provide the fertilizer and chemicals, and in many instances, the seed, feed, fuel, tires, batteries, etc. Our members may also provide the equipment through the use of anhydrous ammonia nurse tanks. Our primary concern with this legislation is that it would provide a statutory lien for leased equipment in front of the ag input suppliers. We believe this is unfair and would urge the committee to include ag input suppliers in the legislation.

I appreciate the opportunity to appear before you today and would welcome any questions you may have.

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2-19-93
attachment 3*