

KANSAS CREDIT ATTORNEYS ASSOCIATION

SENATE BILL NO. 322

HOUSE COMMITTEE ON JUDICIARY

MARCH 6, 2012

Chairman Kinzer and Members of the House Committee on Judiciary:

I appreciate this opportunity to submit remarks to you on behalf of the Kansas Credit Attorney Association.

Last session, we made the very difficult and controversial decision to remain silent on the surcharge increase despite knowing the harmful effect it would have on our clients and the courts. While, we understand that a surcharge is the only means of seeing that 100% of funds paid are deposited into the court's coffers instead of seeing them divvied up amongst 16-17 other groups as happens with the docket fees.

The revenue numbers reported by the court reveal that our concerns are concrete reality. Since the most recent increase which took effect in July of 2011, surcharge revenues are down approximately \$1 million with limited actions filing seeing a 14% drop.

Our Clients are finding cheaper methods of recovering debts and enforcing judgments than those offered in the courts. This drop in revenue will persist so long as the surcharge continues and will hasten exponentially should the sheriff service fees go up as proposed in Senate Bill No. 283 and in Senate Bill No. 425 the cost of filing increase by another \$10.00 for each document. The net effect of all bills would be a further decline in filings.

Under these three pieces of pending legislation (SB 283, SB 322 and SB 425) each time a small business seeks to recover a debt legal owed to them, they will have to pay a filing fee \$56-122 plus a sheriffs fee of at least \$15 (SB 283), plus e-filing fees of \$10 to file a petition, \$10.00 to file a summons, \$10.00 to file a journal entry of judgment (SB 425). Just to secure a judgment they have already spent \$101-167.00. Then if they have to file a garnishment to recover the judgment they will have to pay \$12.50 surcharge, \$10.00 e-filing fee and \$15.00 for the sheriff to serve the garnishment for a total of \$37.50 per garnishment. This makes it impractical for the small business to attempt to recover its losses. On a bill under \$500, a business owner will have to spend at least \$138.50 in court surcharges and access fees or 27% of the amount they have already lost. This is way case filings are down and will continue to trend downward.

While access to the courts is dependent upon revenue, limited actions cases provide more collected revenue than any other category of case filed with the least amount of taxation upon a judge's docket. However, this is changing and will continue to change as the fees disproportionately increase.

While, counterintuitive the Courts would benefit by decreasing the surcharges and rejecting other increases thereby increasing the volume of limited action activities and the revenues to the Court. Rather than the precipitous decline, that may be extrapolated from the Court's own numbers, as a result of the continued surcharge and fee increases.

Thank you for your consideration.

Brandy L. Sutton
Legislative Committee
Kansas Credit Attorneys Association