

KANSAS CREDIT ATTORNEYS ASSOCIATION

SENATE BILL NO. 366

SENATE COMMITTEE ON JUDICIARY

February 15, 2012

Chairman Owens and Members of the Senate Committee on Judiciary:

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

Senate Bill No. 366, proposes a procedure which would re-direct the Answers of Garnishee on non-wage garnishments from the Clerk of the District Court to the judgment creditor's attorney and eliminate the need for the filing with the Clerk and sending by the Clerk of an Order to Pay to the garnishee. We support this aim at efficiency and reduction in the burden placed upon the clerk who currently simply acts as intermediaries in the process.

However, the current version of 366 provides for a "hold harmless" provision stated in page 2, lines 18-22 and page 3, lines 25-29. These "hold harmless" provisions are for concern in the fact that it potentially eliminate any consequence of non-compliance with the Court order. This would result in a significant chance of increased evidentiary hearings and cost, as non-compliant garnishees would be summoned to prove their "good faith" reason for any failure to comply. While these garnishments are generally directed at financial institutions, there are numerous other situations where non-wage garnishments are used. Garnishees, that are not financial institutions, are not generally as compliant which has the potential clogging up the Judicial systems already busy dockets with "good faith" evidentiary hearings.

We have reason to believe that the financial institutions may seek an additional fee under 60-733(a) due to this change in procedure. We would strongly oppose any such increase as there is no basis to assume that mailing or faxing an answer of garnishee to a judgment creditor is more costly than mailing the same to a court. In addition financial institutions under their deposit holder agreements routinely charge the debtor a garnishment processing fee of as much as \$100 per garnishment processed. This fee is charged on top of the statutorily permissible fee.

Thank you for your consideration.

Brandy L. Sutton
Legislative Committee
Kansas Credit Attorneys Association