

KANSAS CREDIT ATTORNEY ASSOCIATION

SENATE BILL NO. 359

SENATE COMMITTEE ON JUDICIARY

February 8, 2012

Chairman Owens and Members of the Senate Committee on Judiciary:

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

Senate Bill No. 359, as drafted, is intended to apply the formula currently used for calculating post-judgment interest in Chapter 60 cases to pre-judgment interest in tort claims. However, the language goes beyond the drafter's intention and captures Chapter 61 limited actions and Chapter 60 civil actions and contract claims and therefore we must object to the bill as drafted.

Many, if not most, Kansas businesses of all sizes – from small retail shops to large hospitals – provide goods and services to consumers without a contract or a contract that sets an interest rate. This is generally a function of cost and convenience as accounting systems with variable rate interest tracking is both expensive and expensive to manage. It is simpler to use a fixed rate stable from year to year and does so at a rate that ensures these “accidental creditors” recover their time value of money.

Replacing this stable, functional system with a more expensive approach that takes money from the pockets of business creates other problems as well. There is concern about what disclosures regarding the variable rate may be required and how exactly to provide them to consumers. Further, the interaction of this pre-judgment variable interest rate with Federal Acts creates a significant risk profile for businesses seeking to collect debts outside of litigation. The very specific notice requirements may alter our ability to reasonably comply with these standards as they relate to interest.

We have communicated with the bill sponsors the concerns we have relating to the unintended impact to other areas of the law and are working on a solution to meet their objective related to interest in tort cases, yet keep the standards we operate under intact.

Thank you for your consideration.

Larry Zimmerman
Legislative Chairperson
Kansas Credit Attorneys Association