

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 am on Wednesday, January 18, 2012 in Room 152S of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes Office
Marilyn Arnone, Committee Assistant

Conferees appearing before the Committee:

Senator Dick Kelsey
Bill Meek, Register of Deeds, Sedgwick County
Kathleen A. Taylor, Kansas Bankers Association
Marilyn Nichols, Shawnee County Register of Deeds

Others in attendance:

See attached list.

Chair Teichman welcomed everyone to the meeting. She commented that today was the first round of bills scheduled for hearings.

Chair Teichman opened the hearing on **SB 255-Concerning mortgage registration fees** and asked Melissa Calderwood to give an overview of the bill.

The Chair recognized Senator Kelsey to introduce Bill Meek, proponent of **SB 255**. Senator Kelsey commented that the fiscal note for this bill indicated there would be no effect on local governments.

Prior to his testimony, Mr. Meek introduced several people who are the Register of Deeds in surrounding counties.

Mr. Meek, representing the Kansas Register of Deeds Association and the Kansas County Officials Association, supports **SB 255**. The mortgage registration fee requirement has been in

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place for almost a century to compensate local governments for the cost of maintaining real property records of each county. Because the term “indebtedness” is not defined, some out of state banks attempt to use this lack of definition to avoid paying their fair share of this fee. This bill will clarify the exemptions and will assist the 105 Registers of Deeds to uniformly apply this statute to determine if a fee is due. The bill defines the term indebtedness and requires that a mortgagee provide either an affidavit or documentation that clearly establishes the indebtedness for which the exemption is being claimed is indebtedness that the mortgage registration fee has already been paid on. (Attachment 1)

Mr. Meek answered questions from the Committee.

Chair Teichman called on Kathleen Taylor to testify from a neutral position. Ms. Taylor said the Kansas Banking Association neither supports nor opposes **SB 255**. It is their understanding that the new subsection (f) is intended to further define the circumstances under which no further mortgage registration fee is required to be paid. KBA believes the statute as it stands needs no further clarification. But it is understood that there are frustrations in enforcing the existing law and propose amendments that are directed to ease the situation. Amendments proposed include Line 18 to clarify “indebtedness” and on Line 21 to recognize that mortgages are amended without the need for additional registration fees. (Attachment 2)

There being no opponents to the bill, the Chair closed the hearing on **SB 255**.

The Chair opened the hearing on **SB 256 - Concerning mortgages of real property.**

This bill was introduced by Senator Kelsey who said the fiscal note for this bill indicated no effect on local governments.

Mr. Meek testified in support of **SB 256**. Mr. Meek representing The Kansas Register of Deeds Association and the Kansas County Officials Association, supports **SB 256**. The intent of this bill is to encourage mortgage companies and their assignees to file assignments of mortgages in a timely manner to assist landowners, who have paid their mortgages off, in getting the release of mortgage filed. This bill amends the statute regarding mortgage releases to put the burden of

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recording an assignment on the assignor of a mortgage which places the burden of releasing the mortgage, when the mortgage is paid, on the new assignee making who is responsible for releasing the mortgage never in question. (Attachment 3)

Questions from the Committee were answered by Mr. Meek.

Kathleen Taylor said the Kansas Bankers Association opposes **SB 256**. The bill requires the last mortgagee or mortgagee's assignee of record to enter satisfaction of "such" mortgage to be entered immediately. Without further definition, they are concerned that the last mortgagee of record may not have any interest in "such" mortgage, and would be unable to enter satisfaction. As drafted, this bill creates a situation that would be impossible and potentially not legal, for a mortgagee of record to comply. (Attachment 4)

Ms. Taylor answered questions from the Committee.

Marilyn Nichols spoke briefly to help clarify some of the questions from the Committee regarding the two bills.

Following further questions, the Chair closed the hearing on **SB 256**.

The meeting was adjourned at 10:30 am. The next meeting will be on January 19, 2012.