

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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JASON PROBST
102ND DISTRICT

Chairman Hoheisel and committee members,

Thank you for the opportunity to testify in support of HB2101.

This legislation seeks to provide some minimal protections to Kansans who are working toward the American Dream of home ownership, yet don't have the credit score or resources to enjoy the protections offered by a traditional mortgage process. In the process of creating those protections, HB2101 also extends protections to lending institutions who run the risk of getting caught up in the unscrupulous practices of bad actors.

Essentially, HB2101 does four primary things:

1. It creates a mechanism through which anyone – a buyer or seller – can file an affidavit of equitable interest with their county registrar of deeds. This ensures there's a record that another party has an interest in a property – a measure that protects buyer, seller, and lenders.
2. It prohibits the sell of a property via contract for deed without holding title to the property and without disclosure of any liens or encumbrances. This also protects the buyer and lenders from fraud.
3. It provides a clearly defined mechanism for curing a contract that is in default.
4. It leverages the power of the Attorney General's office and the Consumer Protection Act if this act is violated.

There exists a lane between renting and buying a home that is completely unregulated – and that's why this legislation is necessary. Contracts for Deed can be a good tool that allows working people without access to traditional credit to achieve home ownership. I want to be clear about that, and clear in my hope to preserve the practice when it works for families.

Yet, the practice is ripe for abuse because it is outside the governance of the Landlord/Tenant Act and regulations that surround home purchases through a licensed real estate agent and traditional lending institutions. Realtors are bound by licensing requirements, and lenders must follow extensive guidelines that include assuring one's ability to pay, and inspections to ensure the home is livable. A Landlord is bound by the rules set out in the Landlord/Tenant Act. There are no such protections on the sale of a home through a land contract. There is more regulation and paperwork required for the sale of a \$500 junk automobile than there is on the sale of real property handled through a contract for deed.

I first became aware of the way in which land contracts could be abused in the years after the financial crisis of 2007-2008. There were numerous instances of homes being sold to buyers where the seller didn't have clear title to sell the property. One particularly bad actor had nearly 40 such properties in our community on which he collected rents on homes he didn't have the right to sell, or on which he had stopped making payments.

This is an issue that happens in every area of the state, particularly in urban areas. Yet, those who are abused by bad actors often lack any recourse to recover their lost assets or to create a record of the severity or frequency of this

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problem. Most people who purchase a home on contract for deed do so because they have meager means, damaged credit, or limited capital. If they are harmed by a bad contract or a bad actor, they are typically in distress and in immediate need of a new place to live. Seeking justice or restoration isn't something they often have time or resources to secure.

It's also important to note that nothing in HB2101 will negatively affect any seller who is following some basic rules of honesty and transparency in business. This legislation doesn't impede one's ability to sell or buy a home on contract; it merely ensures that everyone follows some very basic rules. Only those who aim to defraud or take advantage of an unknowing buyer will find their efforts made more difficult.

Lastly, I want to make clear that HB2101 only applies to residential property – and will not extend to commercial or agricultural properties. Contract for deed is a very effective tool in those properties, and there is little evidence of abuse there.

My hope is that we can create for buyers at least a similar level of protection that exists for renters through the Landlord/Tenant Act – and for used car purchasers through the bill of sale and title transfer. More than 20 states, including Texas, Oklahoma, and North Dakota, have taken steps to eliminate the abuses in land contracts. HB2101 can protect vulnerable working families in Kansas from predatory practices and help them realize the American Dream of home ownership. And it can do so without creating any burden on those who do business the right way.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Probst", written over a horizontal line.

Rep. Jason Probst