



SEDGWICK COUNTY, KANSAS
REGISTER OF DEEDS

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REGISTER OF DEEDS

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TESTIMONY IN SUPPORT OF SB255
Senate Committee on Financial Institutions and Insurance
January 18, 2012

Chairperson Teichman and members of the committee, my name is Bill Meek. I represent the Kansas Register of Deeds Association, consisting of 105 member Register of Deeds, as well as the Kansas County Officials Association. Thank you for the opportunity to provide this written testimony in support of SB 255.

This bill simply defines the term indebtedness as used in K.S.A. 79-3102(d)(2) and (d)(3). These two subsections provide exemptions to the mortgage registration fee required under the mortgage registration act, K.S.A. 79-3101, *et seq.* The mortgage registration fee requirement has been in place for almost a century and it provides a source of funding for local government, as well as for the Kansas Heritage Trust Fund. The mortgage registration fee is intended to compensate local governments for the cost of maintaining the real property records of each county, a service that is crucial to the private property rights of Kansans, whether they be corporations or individuals.

Kansas bankers understand what the term "indebtedness" means and they comply with the law by paying their fair share of the mortgage registration fee. However, 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 is unfair to Kansas banks, and passage of this bill will create a level playing field. This bill will also clarify the exemptions under K.S.A. 79-3102(d)(2)

and (3), which will greatly assist all one hundred and five Kansas Registers of Deeds in uniformly applying this statute to determine if a fee is due or not.

This bill defines the term indebtedness, again just for subsections (d)(2) and (d)(3) of K.S.A. 79-3102, and requires that a mortgagee provide either an affidavit or supporting 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. In order to qualify as the same indebtedness, the mortgagee must show the transaction involves:

1. The same borrowers or their assigns;
 2. The same lender or their assigns;
 3. The same promissory note or other instrument of a debt obligation;
- And
4. The same legally described real property.

I thank you again for this opportunity to provide testimony and am available for any questions.