

SESSION OF 2014

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE
BILL NO. 298**

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 298, as amended, would phase out the mortgage registration tax over five years while simultaneously phasing in over four years additional fees that would be collected by county registers of deeds.

The mortgage registration tax, which is currently levied at the rate of 0.26 percent of the principal debt or obligation secured by mortgages, would be reduced to: 0.2 percent for all mortgages received and filed for record during calendar year 2015; 0.15 percent during calendar year 2016; 0.1 percent during calendar year 2017; and to 0.05 percent during calendar year 2018. The tax would be repealed altogether beginning in 2019.

Current law provides that 25/26ths of the revenue be retained by counties, with 1/26th coming to the state for deposit in the Heritage Trust Fund. The bill would repeal the requirement that any mortgage registration tax receipts be distributed to the Heritage Trust Fund on and after January 1, 2015.

A number of statutory fees currently charged pursuant to KSA 28-115 relative to documents filed with county registers of deeds would be increased from 2015 through 2018 (but would not be increased for a final time in 2019 when the mortgage registration tax rate is reduced for the final time).

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The fee increases would be as follows:

	Current Law	CY 2015	CY 2016	CY 2017	CY 2018 and thereafter
First page of deeds, mortgages, other instruments	\$ 6.00	\$ 8.00	\$ 11.00	\$ 14.00	\$ 17.00
Each additional page of such documents	2.00	4.00	7.00	10.00	13.00
Recording town plats per page	20.00	22.00	25.00	28.00	31.00
Release/assignment of mortgages	5.00	7.00	10.00	13.00	16.00
Certifying instruments on record	1.00	3.00	6.00	9.00	12.00
Signature acknowledgment	0.50	2.50	5.50	8.50	11.50
IRS tax lien filing notices	5.00	7.00	10.00	13.00	16.00
IRS/KDOR lien release notices	5.00	7.00	10.00	13.00	16.00
Liens for materials/services under KSA 58-201	5.00	7.00	10.00	13.00	16.00

Relative to these aforementioned fees, a new cap would apply beginning in calendar year 2015 such that a maximum of \$125 could be levied for recording mortgages of \$75,000 or less involving single-family principal residences.

In addition to the foregoing fee increases, an additional fee of \$1 would be levied beginning in calendar year 2015 and credited to the Heritage Trust Fund on the first and all subsequent pages of any deeds, mortgages, and other instruments and on release or assignments of mortgages. An annual statutory cap of \$100,000 on Heritage Trust Fund mortgage registration tax distributions from any given county would be replaced with a new cap of \$30,000 from any given county relative to this new \$1 replacement fee.

An existing separate fee of \$2 per page would be increased to \$3 per page beginning in calendar year 2015, and receipts from this additional \$1 fee would be split into two separate \$0.50 portions and deposited in the County Clerk Technology Fund (CCTF) and the County Treasurer Technology Fund (CTTF), which are new funds created by the bill for each county. Moneys up to \$50,000 in each county deposited in the CCTF and the CTTF would be required to be used by county clerks and county treasurers to acquire

equipment and technological services for the storing, recording, archiving, retrieving, maintaining and handling of certain data. County commissions would be authorized to divert amounts in excess of \$50,000 in each county for technological needs of other county offices upon the finding of county clerks or treasurers that such amounts exceed the technological needs of those offices.

Background

The original bill would have repealed the mortgage registration tax, effective July 1, 2014. The Senate Assessment and Taxation Committee on February 26 amended the bill to delete its original provisions, recommend that a substitute bill be created, and phase out the mortgage registration tax while phasing in certain per-page fee increases. After the bill had been re-referred, the Senate Committee on March 13 increased the proposed amount of per-page fee replacement revenues being phased in and earmarked for counties from \$4 per page by 2018 to \$11 per page; limited the amount of selected document-recording fees to \$125 for certain residential mortgages of \$75,000 or less; provided for the additional \$1 fee that would be retained for technology purposes; and reduced the existing cap on Heritage Trust Fund distributions from any given county from \$100,000 to \$30,000. The Senate Committee of the Whole amended the bill on March 18 to add a technical adjustment and to incorporate provisions relating to the CTTF.

According to the Property Valuation Division (PVD) of the Department of Revenue, mortgage registration tax receipts in CY 2013 were \$47.079 million. Of this amount, \$45.269 million was retained by counties, while \$1.810 million was collected for the Heritage Trust Fund. But an estimated \$0.719 million of Heritage Trust Fund collections was retained in several counties pursuant to a statutory cap of \$0.1 million on such distributions from any given county. Estimated Heritage Trust Fund distributions in CY 2013 therefore were \$1.092 million.

The phased reduction in the county's share of the tax would be expected to equate to a loss of: \$9.054 million in CY 2015; \$18.108 million in CY 2016; \$27.161 million in CY 2017; \$36.215 million in CY 2018; and \$45.269 million in CY 2019 and thereafter.

Based on additional data obtained from PVD, the higher county-retained fees levied pursuant to KSA 28-115, absent the newly proposed cap for certain mortgages of \$75,000 or less, would increase revenues by: \$4.420 million in CY 2015; \$11.049 million in CY 2016; \$17.679 million in CY 2017; and, when fully phased in, \$24.308 million in CY 2018. The actual increase in such fees would be expected to be below these amounts, which have not been adjusted to account for the \$125 cap provision applicable to certain mortgages.

The additional \$1 fee earmarked for the CCTF and the CTF would provide \$2.210 million beginning in CY 2015 (\$1.105 million to each fund).

The additional \$1 increase in selected fees for the Heritage Trust Fund also would be expected to increase fees by \$2.210 million beginning in CY 2015. Because of changes in the cap provision, the Heritage Trust Fund would receive an estimated \$1.151 million of that amount, with various counties' retaining the balance.