

Testimony of Randall S. Barbour
Kansas Land Title Association
House Taxation Committee
Opposition to House Bill 2179
February 24th

Mr. Chairman, members of the Committee. My name is Randy Barbour. I'm appearing on behalf of the Kansas Land Title Association ("KLTA"). KLTA has represented abstractors and title insurance agents in all 105 Kansas Counties since 1907.

We are concerned about the provisions of House Bill 2179 because of the retroactive nature of paragraph 1(b). Ownership of land in Kansas is protected by a system of placing notice of interests in the public record. Bona fide purchasers for value rely on their ability to examine all interests in the public record and make a determination with a high degree of certainty that once they pay value to purchase an interest in real estate, a court of law will protect that interest against claims or interests for which they were given no notice. The current statute as written has, for more than a century, voided certain mineral interests that did not get recorded in the public record and listed for taxation within 90 days of execution. In that century of time, attorneys have been rendering opinions of title to buyers and lenders and title insurance agents have been insuring buyers and lenders, assuring them of the ownership of the surface and mineral estates. The retroactive nature of this amendment damages our ability to rely on the public record and the laws enforcing constructive notice. The retroactive nature of this amendment will increase the number of cases filed in our court system where landowners try to defend what they had a reason to believe they owned. And the retroactive nature of this amendment acts as a taking of a terminated interest without consideration.

The Kansas Supreme Court has pointed out in case law that legislatures should change statutes in a manner that affects the future only. We ask that you reaffirm that wisdom once again on this bill.

For these reasons, the Kansas Land Title Association opposes any version of House Bill 2179 that attempts to apply its changes retroactively.

Thank you very much for your consideration today.

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