

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 331

By Committee on Utilities

1-22

12 AN ACT concerning wind resources and technologies; relating to the
13 recording of leases or easements related thereto; amending K.S.A. 58-
14 2221 and repealing the existing section.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 58-2221 is hereby amended to read as follows: 58-
18 2221. **Every *Except as provided in section 2, and amendments***
19 ***thereto, every*** instrument in writing that conveys:

20 (a) Real estate;;

21 (b) any estate or interest created by an oil and gas lease; ~~or;~~

22 ~~(c) any estate or interest created by any lease or easement involving~~
23 ~~wind resources and technologies to produce and generate electricity; or~~

24 ~~(d)~~ (c) whereby any real estate may be affected, proved or acknowl-
25 edged, and certified in the manner hereinbefore prescribed, may be re-
26 corded in the office of register of deeds of the county in which such real
27 estate is situated. ~~Provided,~~ It shall be the duty of the register of deeds
28 to file the same for record immediately, and in those counties where a
29 numerical index is maintained in ~~his or her~~ *the register of deeds'* office,
30 the register of deeds shall compare such instrument, before copying the
31 same in the record, with the last record of transfer in ~~his or her~~ *the register*
32 *of deeds'* office of the property described ~~and~~. If the register of deeds
33 finds such instrument contains apparent errors, ~~he or she~~ *the register of*
34 *deeds* shall not record the ~~same until he or she shall have notified the~~
35 ~~grantee where instrument until the grantee has been notified, if such~~
36 notice is reasonably possible.

37 The grantor, lessor, grantee or lessee or any other person conveying or
38 receiving real property or other interest in real property upon recording
39 the instrument in the office of register of deeds shall furnish the register
40 of deeds the full name and last known post-office address of the person
41 to whom the property is conveyed or ~~his or her~~ *such person's* designee.
42 The register of deeds shall forward such information to the county clerk
43 of the county who shall make any necessary changes in address records

1 for mailing tax statements.

2 ***New Sec. 2. (a) Every instrument that conveys any estate or***
3 ***interest created by any lease or easement involving wind resources***
4 ***and technologies to produce and generate electricity shall include:***

5 ***(1) A description of the real property subject to the easement***
6 ***and a description of the real property benefitting from the wind***
7 ***lease or easement;***

8 ***(2) a description of the vertical and horizontal angles, expressed***
9 ***in degrees, and distances from the site of the wind power system in***
10 ***which an obstruction to the wind is prohibited or limited;***

11 ***(3) any terms or conditions under which the lease or easement***
12 ***is granted or may be terminated, excluding any compensation re-***
13 ***ceived by the owner of the real property; and***

14 ***(4) any other provisions necessary or desirable to execute the***
15 ***instrument.***

16 ***(b) Every instrument described in subsection (a) may be re-***
17 ***corded in the office of register of deeds of the county such real estate***
18 ***is situated. It shall be the duty of the register of deeds to file the***
19 ***same for record immediately, and in those counties where a numer-***
20 ***ical index is maintained in the register of deeds' office, the register***
21 ***of deeds shall compare such instrument, before copying the same in***
22 ***the record, with the last record of transfer in the register of deeds'***
23 ***office of the property described. If the register of deeds finds such***
24 ***instrument contains apparent errors, the register of deeds shall not***
25 ***record the instrument until the grantee has been notified, if such***
26 ***notice is reasonably possible.***

27 ***The grantor, lessor, grantee or lessee or any other person con-***
28 ***veying or receiving real property or other interest in real property***
29 ***upon recording the instrument in the office of register of deeds shall***
30 ***furnish the register of deeds the full name and last known post-office***
31 ***address of the person to whom the property is conveyed or such***
32 ***person's designee. The register of deeds shall forward such infor-***
33 ***mation to the county clerk of the county who shall make any nec-***
34 ***essary changes in address records for mailing tax statements.***

35 ***New Sec. 3. (a) When a recorded deed or conveyance covering***
36 ***mineral ~~and~~ [or] royalty rights purporting to cover mineral ~~and~~ [or]***
37 ***royalty rights not owned by grantor, and which deed or conveyance***
38 ***may include a general conveyance provision (including but not lim-***
39 ***ited to a "mother hubbard" clause or a "cover-all" clause) for other***
40 ***property conveyed by grantor, but which the grantor believes there***
41 ***was a mistake of fact that such general conveyance provision should***
42 ***not have been included in such deed or conveyance, then any party***
43 ***with an interest in the real estate covered by such deed may make***

1 *demand upon the grantee or grantor, as applicable, to rescind or*
2 *reform the mistake caused by the general conveyance provision.*

3 *(b) Any grantee or grantor who refuses or neglects to correct or*
4 *reform such legal description in the office of the register of deeds*
5 *within 20 days after written demand has been made as provided in*
6 *subsection (a), unless a longer period has been agreed to in writing*
7 *by the parties, shall be liable in damages to the party for whom the*
8 *demand was made in the sum of up to \$10,000 per title affected,*
9 *and reasonable attorney's fee for preparing and prosecuting the ac-*
10 *tion before any court of competent jurisdiction. The plaintiff in such*
11 *action may recover any additional damages that the evidence in the*
12 *case warrants.*

13 *(c) The remedies provided under this section shall not affect*
14 *other remedies or damages provided by statute or law.*

15 *[(d) As used in this section "mother hubbard clause" means a*
16 *provision in a deed or other instrument in writing which is intended*
17 *to convey an interest in real estate and which describes the property*
18 *to be conveyed as all of the grantor's property in a certain county.]*

19 ~~Sec. 4.~~ K.S.A. 58-2221 is hereby repealed.

20 ~~Sec. 5.~~ This act shall take effect and be in force from and after its
21 publication in the statute book.