

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 10:00 a. m./~~p.m.~~, on January 31, 1979.

All members were present except: Senator Gaar

The next meeting of the Committee will be held at 10:00 a. m./~~p.m.~~, on February 1, 1979.

~~These minutes of the meeting held on XXX were considered, corrected and approved.~~

E. Duane Stanley
Chairman

The conferees appearing before the Committee were:

- Charles Henson - Kansas Bankers Association
- Janet Stubbs - Home Builders Association of Kansas
- Tim Underwood - Kansas Association of Realtors
- Thomas E. Kelly - Acting Director, Kansas Bureau of Investigation

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

Senate Bill No. 123 - Exemptions to mortgage registration fee.
Charles Henson testified in support of the bill and urged the adoption of an amendment. A copy of his letter is attached hereto. Committee discussion with him followed.

Janet Stubbs testified in support of the bill, including the proposed amendment.

Tim Underwood testified in support of the bill.

Senator Hess requested staff to obtain information concerning the fiscal implications of the bill.

A proposed amendment to the bill in ballooned form was distributed. It was pointed out that this amendment would accomplish the purpose of the committee bill which had previously been authorized to be introduced at the request of the Register of Deeds Association. Following committee discussion, Senator Simpson moved to amend the bill by adopting the proposed amendment as indicated on the ballooned copy; Senator Burke seconded the motion, and the motion carried.

Senate Bill No. 110 - Law enforcement agencies reporting of certain criminal information. The chairman explained the background of the bill, and that it is technical in nature.

continued -

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the Senate Committee on Judiciary January 31, 19 79SB 110

Tom Kelly testified in support of the bill, and stated that it had been requested by the Kansas Bureau of Investigation.

Senator Berman moved to report the bill favorably; Senator Burke seconded the motion, and the motion carried.

The chairman announced that staff will prepare a summary of various bills that were passed by this committee in 1977 and 1978, were passed by the full Senate, but which did not pass the House.

House Bill 2086 - Small claims procedure maximum amount.
The chairman reminded the committee that at the close of the committee meeting yesterday, a motion to amend the bill was pending. Senator Berman explained the purpose of his motion to amend the bill. Following committee discussion, the motion carried. Senator Berman moved to report the bill favorably as amended; Senator Hess seconded the motion. Following committee discussion, the motion carried.

Senate Bill No. 65 - Appeals in small claims procedure actions.
Having accomplished the purpose of this bill by the amendment to HB 2086, Senator Berman moved to report the bill unfavorably; Senator Hess seconded the motion, and the motion carried.

Senate Bill No. 107 - Increasing jurisdictional amount of small claims procedure act. Having accomplished the purpose of this bill by the passage of HB 2086, Senator Hess moved to report this bill unfavorably; Senator Berman seconded the motion, and the motion carried.

Senate Bill 111 - Amerngency care or assistance at scene of an emergency or accident. Copies of a proposed amendment to the bill were distributed; a copy is attached hereto. Committee discussion of the proposed amendment was had. Senator Hein moved to report the bill unfavorably; Senator Berman seconded the motion for purposes of discussion. Senator Burke made a substitute motion to amend the bill similarly to the purposed amendment indicated in the ballooned copy, with an amendment to be made to both subsections (a) and (b) of the bill. Following committee discussion, the substitute motion carried with Senator Hein voting "No." Senator Parrish moved to report the bill favorably as amended; Senator Burke seconded the motion, and the motion carried.

The meeting adjourned.

These minutes were read and approved
by the committee on 2-14-79.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Dennis ADAMS	Topeka	K. A. C.
Tim Underwood	"	Ks. Assoc. Realtor
Janet Stubbs	"	# Home Builders Assoc of Ks.
J. C. BROWN	"	KBI
Thomas E. Kelly	"	"
Charles Sermon	"	Kansas Builders Assn
Markus Hummer	"	Dahl's Fair Courts
Max Moser	"	KODAS

SENATE BILL No. 123

By Senator Pomeroy

1-23

0016 AN ACT concerning mortgage registration fee exemptions;
0017 amending K.S.A. 79-3102 and repealing the existing section.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. K.S.A. 79-3102 is hereby amended to read as fol-
0020 lows: 79-3102. Before any mortgage of real property, or renewal
0021 or extension of the same shall be received and filed for record
0022 there shall be paid to the register of deeds of the county in which
0023 such property or any part thereof is situated, a registration fee of
0024 twenty-five cents (25¢) for each one hundred dollars (\$100) and
0025 major fraction thereof, of the principal debt or obligation which is
0026 secured by such mortgage, and upon which no prior registration
0027 fee has been paid: ~~Provided, That~~ No registration fee whatsoever
0028 shall be paid, collected or required for or on any mortgage or
0029 other instrument, (1) given solely for the purpose of correcting or
0030 perfecting a previously recorded mortgage or other instrument,
0031 (2) given for the purpose of providing additional security for the
0032 same indebtedness, where the registration fee herein provided for
0033 has been paid on the original mortgage or instrument, (3) upon
0034 that portion of the consideration stated in the mortgage tendered
0035 for filing which is verified by affidavit to be principal indebted-
0036 ness covered or included in a previously recorded mortgage or
0037 other instrument with the same lender upon which the registra-
0038 tion fee herein provided for has been paid or (4) for any lien,
0039 indenture, mortgage, bond or other instrument or encumbrance
0040 nor for the note or other promise to pay thereby secured, all as
0041 may be assigned, continued, transferred, reissued or otherwise
0042 changed by reason of, incident to or having to do with the
0043 migration to this state of any corporation, by merger or consoli-
0044 dation with domestic corporation as survivor, or by other

As used herein "principal debt or obligation" shall not include any finance charges or interest. In cases where interest has been precomputed, the register of deeds may require the person filing the mortgage to state the amount of the debt or obligation owed before computations of interest.

1-31-79

EIDSON, LEWIS, PORTER & HAYNES

PHILIP H. LEWIS
JAMES W. PORTER
WILLIAM G. HAYNES
CHARLES N. HENSON
AUSTIN NOTHERN
BROCK R. SNYDER
CHARLES D. MCATEE
DALE L. SOMERS
K. GARY SEBELIUS
RICHARD F. HAYSE
RONALD W. FAIRCHILD
ANNE E. LOLLEY
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OF COUNSEL:
O. B. EIDSON

January 26, 1979

The Hon. Elwaine Pomeroy
Kansas State Senate
Room 143-N, State Capitol Building
Topeka, Kansas 66612

RE: S.B. 123

Dear Elwaine:

As counsel for the Kansas Bankers Association, I have noted S.B. 123, which you have introduced to amend K.S.A. 79-3102 which imposes the mortgage registration tax.

The KBA has been concerned about attorney general opinion 78-12 which concludes that when a mortgage secures payment of both the principal and interest of a loan, the mortgage registration fee must be computed on the sum of the principal and interest. This conclusion we feel is in error, as K.S.A. 79-3102 seems clearly to base the tax upon "the principal debt or obligation which is secured by such mortgage," and unpaid interest becomes a part of the principal debt only as it is earned and becomes due. However, our approach to Clarence Malone, who authored the opinion, for reconsideration of the opinion was unavailing, and registers of deeds in a number of counties are applying the opinion. In other counties, the register of deeds is computing the tax on the principal amount of the loan only. This would seem to be the type of question that should be resolved by legislation rather than litigation.

The KBA would like to propose an amendment to S.B. 123 to clear up this matter as follows:

Amend S.B. 123, in line 27, by inserting the following after the period: "Interest not yet earned shall not be considered a part of the principal debt or obligation secured by such mortgage."

An appropriate amendment probably should be made in the title.

I do not feel that this amendment would interfere with the purpose expressed in your bill, and we would appreciate your

Page 2 cont'd
The Hon. Elwaine Pomeroy
January 26, 1979

favorable consideration of the amendment.

If you have any question regarding this, or would like for me to appear before the committee in explanation of the amendment, please let me know.

Sincerely yours,

Charles N. Henson
of Eidson, Lewis, Porter & Haynes

CNH:aa
cc: Harold Stones

Amend S.B. 123, in line 27, by inserting the following
after the period: "**I**nterest not yet earned shall not be
considered a part of the principal debt or obligation secured
by such mortgage."

SENATE BILL No. 111

By Senators Johnston, Chaney and Janssen

0014 AN ACT concerning liability for damages resulting from emer-
0015 gency care or assistance; amending K.S.A. 1978 Supp. 65-2891
0016 and repealing the existing section.

0017 *Be it enacted by the Legislature of the State of Kansas:*

0018 Section 1. K.S.A. 1978 Supp. 65-2891 is hereby amended to
0019 read as follows: 65-2891. (a) Any ~~health care provider~~ person who
0020 in good faith renders emergency care or assistance at the scene of
0021 an emergency or accident, including treatment of a minor without
0022 first obtaining the consent of the parent or guardian of such
0023 minor, shall not be liable for any civil damages for acts or
0024 omissions other than damages occasioned ~~by gross negligence or~~
0025 by willful or wanton acts or omissions by such person in render-
0026 ing such emergency care.

: (1)

0027 (b) Any ~~health care provider~~ person may render in good faith
0028 emergency care or assistance, without compensation, to any
0029 minor requiring such care or assistance as a result of having
0030 engaged in competitive sports, without first obtaining the consent
0031 of the parent or guardian of such minor. Such ~~health care pro-~~
0032 ~~vider~~ person shall not be liable for any civil damages other than
0033 damages occasioned by gross negligence or by willful or wanton
0034 acts or omissions by such person in rendering such emergency
0035 care.

, or (2) by deviation from the standard of care that a reasonable person with similar background and training would be held to under the circumstances of the emergency

0036 (c) Any ~~health care provider~~ person may in good faith render
0037 emergency care or assistance during an emergency which occurs
0038 within a hospital or elsewhere, with or without compensation,
0039 until such time as the physician employed by the patient or by his
0040 or her family or by his or her guardian assumes responsibility for
0041 such patient's professional care. The ~~health care provider~~ person
0042 rendering such emergency care shall not be held liable for any