

Approved On: \_\_\_\_\_

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 18, 1986 in room 519 South at the Capitol of the State of Kansas.

All members of the Committee were present.

Committee staff present:

Tom Severn, Legislative Research  
Melinda Hanson, Legislative Research  
Don Hayward, Reviser of Statutes  
Millie Foose, Committee Secretary

Dr. Severn discussed SB-407, an act relating to the mortgage registration tax; concerning exemptions therefrom and the administration thereof, and explained the changes that had been made by the amendment.

Susie Parmer, Register of Deeds, Leavenworth County. spoke in support of SB-407.

Beverly Bradley, Legislative Coordinator Kansas Association of Counties, testified in support of the amended version of SB-407. (Attachment 1)

Gerry Ray, Intergovernmental Coordinator of Johnson County Board of Commissioners, testified in support of HB-407. (Attachment 2)

Bill Fuller, Assistant Director Public Affairs Division Kansas Farm Bureau, asked questions of the committee and expressed concern about how the amended version of HB-407 would affect the many farmers who are now in serious financial crisis. (Attachment 3)

Rich McKee, representing Kansas Livestock Association objected to the language in lines 48 and 49 "with the same lender or their assigns". His association believes the mortgage registration tax should be assessed based on the extent to which new credit is extended, and supports the bill as originally introduced. (Attachment 4)

Bob Phillips, representing Sunflower Electric Co-op, testified in support of SB-407 as amended. Representative Leach asked how the co-op would feel about lowering the rate to a \$25.00 restructuring fee.

Karen McClain, representing Kansas Association of Realtors, said her organization believes that the tax should be assessed on new money only.

Mr. John Bennett, representing Board of Tax Appeals, said that line 30 "and upon which no prior registration fee has been paid" is the line that is causing all the trouble.

Representative Erne questioned Ms. Parmer about what was wrong with the original bill, and this concluded today's testimony on SB-407.

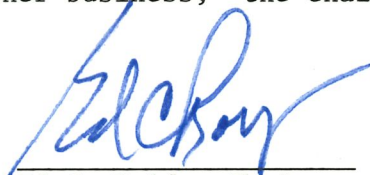
Dr. Severn discussed SB-462 and explained the purpose of panels restricted to four large counties.

Gerry Ray spoke as a proponent of SB-462 and answered questions from the committee concerning who would be on the advisory boards, how they would be selected, and whether it would be volunteer or paid. The committee believes this would require many hours of work and it would be difficult to get people to volunteer. (Attachment 5)

Fred Weaver, representing Board of Tax Appeals, submitted a proposed amendment to SB-462. (Attachment 6) This would create a state board of tax appeals, composed of five members appointed by the governor. Mr. Weaver said that each county should not have a different interpretation of rules -- that right or wrong the decisions would be uniform if handled by the Board. Mr. Weaver also included copy of a letter to a Ways & Means Subcommittee requesting a plan for handling the present backlog and reappraisal caseload. (Attachment 7)

The minutes of March 7 were reviewed by the committee and approved.

There being no further business, the chairman adjourned the meeting.



Ed C. Rolfs, Chairman

# Kansas Association of Counties

*Serving Kansas Counties*

Suite D, 112 West Seventh Street, Topeka, Kansas 66603

Phone 913 233-2271

March 18, 1986

To: Representative Ed Rolfs  
Members House Assessment & Taxation Committee

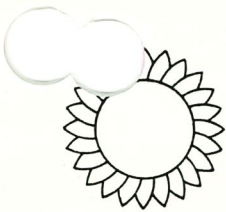
From: Beverly A. Bradley, Legislative Coordinator  
Kansas Association of Counties

Re: SB-407

Good Morning, my name is Bev Bradley and I represent the Kansas Association of Counties. I came this morning in support of SB-407 as amended.

The Registers of Deeds Association has followed this bill closely since it's inception, through the interim study, and through the Senate this session. Their president, tells me that their association supports this bill as amended by the Senate Committee.

I would urge your support of SB-407.



HOUSE ASSESSMENT AND TAXATION COMMITTEE

HEARING ON SB 407

TUESDAY, MARCH 18, 1986

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY BOARD OF COMMISSIONERS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS GERRY RAY AND I REPRESENT THE JOHNSON COUNTY BOARD OF COMMISSIONERS. THANK YOU FOR THE OPPORTUNITY TO PRESENT TESTIMONY ON SB 407, PERTAINING TO THE COLLECTION OF MORTGAGE REGISTRATION FEES.

JOHNSON COUNTY SUPPORTS SB 407 AS AMENDED. WE WISH TO STRESS THE "AS AMENDED" BECAUSE AS ORGINALLY PROPOSED THE BILL WAS EXTREMELY DETRIMENTAL TO COUNTIES AND WAS AMENDED DUE TO THAT PROBLEM. IN ITS PRESENT FORM SB 407 WILL BRING ABOUT UNIFORMITY IN THE COLLECTION OF MORTGAGE REGISTRATION FEES IN KANSAS WITHOUT AN ADVERSE EFFECT ON THE LOCAL JURISDICTIONS.

ON BEHALF OF THE JOHNSON COUNTY COMMISSIONERS I ASK THE COMMITTEE'S SUPPORT OF SB 462 AND ITS AMENDMENTS.



# PUBLIC POLICY STATEMENT

HOUSE ASSESSMENT AND TAXATION COMMITTEE  
Representative Ed Rolfs, Chairman  
March 18, 1986

RE: S.B. 407 -- Mortgage Registration Tax - Interim  
Committee Proposal No. 9

Presented by:  
Bill R. Fuller, Assistant Director  
Public Affairs Division  
KANSAS FARM BUREAU

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Mr. Chairman and members of the Committee:

We appreciate this opportunity to express our concerns and pose questions as you consider S.B. 407 which amends provisions concerning the **mortgage registration tax**.

As you are aware, many farmers are now experiencing the most serious financial crisis since the great depression of the 1930's. As a result, there is a flurry of financial activity, especially in the area of refinancing, as farmers struggle to survive. During this critical time in agriculture, revenues collected from the mortgage registration tax have soared:

<u>Year</u>	<u>Revenue</u>
1984	\$11,195,000
1983	6,660,000
1982	6,685,000
1981	6,911,000

We believe it is likely agriculture has significantly contributed to this nearly 70 percent increase in taxes collected between 1983 and 1984. In fact, several factors have contributed to this increase:

1. Federal Land Banks were very aggressive in making loans in the late 1970's and early 1980's. Now the situation is reversing as a number of borrowers are now exiting FLB's and going to other lenders (commercial banks, etc.). **FLB borrowers are exempt from paying the mortgage registration tax.** As a result, for the first time these borrowers find themselves subject to the tax.
2. Lenders have become nervous about the security of some of their agricultural loans. As a result, banks are now taking second or third position mortgages on real estate in attempts to better secure their loans -- resulting in an increase in mortgage filings.
3. A great deal of refinancing is going on in the farming and ranching industry today. Some of this activity is the result of attempts by farmers to reduce operating expenses by acquiring lower interest rates on loans, while others are refinancing because existing lenders are no longer willing to accept the risks.
  - a. In a refinancing situation where a farmer (borrower) pays off a loan to one lender, then secures another loan from a new lender, he is subject to paying the mortgage registration tax again, even though the same property is being mortgaged.
  - b. However, in another situation where a lender increases the amount of a mortgage, a borrower is obligated to pay tax only on the increased amount above the original mortgage if an "**Affidavit of Prior Registration Tax Fee Paid**" is filed and the secured property remains the same.

Farming is a very capital intensive business. Due to the critical financial conditions in agriculture today, and the fact a

great deal of refinancing is taking place, the mortgage registration tax can be a burden and often unexpected expense. It is especially a problem to those farmers and ranchers who are being forced to refinance and who may even have a **negative** cash flow.

Mr. Chairman, we appreciate your committee's examination of the issue of the mortgage registration tax. In closing, I pose these questions:

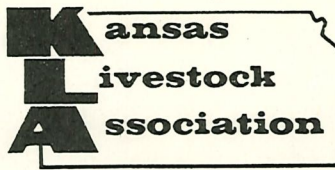
1. **WHY** should borrowers be required to **pay** the mortgage registration **tax** a **second time** when they are refinancing and changing lenders?
2. Is there **uniformity** among the counties in the **administration** of this locally collected tax?
3. Are **consumers** being **adequately represented** on this issue since borrowers pay the tax, not the lenders?
4. Under the current tight fiscal restraints, are there strong **incentives to maximize the collection** of this tax? Maybe there should not be a significant concern in all cases -- but it is possible in some instances.
5. Is the **tax fair**, since it is a tax on a mortgage?
6. What has caused the **dramatic increase in tax collections** from 1983 (\$6.7 mil.) to 1984 (\$11.2 mil.)?

We believe the recommendation by the Interim Committee through the introduction of S.B. 407 addresses our concerns. However, we believe the language reinstated by the Senate Committee on lines 0048 and 0049 ... "with the same lender or their assigns" weakens the bill as it attempts to address our concerns. With this change, we again face the current problem of **forcing farmers to pay the tax a second time** in refinancing situations with different lenders. Therefore, we ask that this language be deleted again and bring the bill back to the form

recommended by the Interim Committee.

Thank you Mr. Chairman for this opportunity to express our support of S.B. 407. I will attempt to respond to any questions you may have.





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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

Statement of the  
Kansas Livestock Association  
to the  
Committee on Assessment & Taxation  
Rep. Ed Rolfs, Chairman  
relative to  
SB 407  
Submitted by  
Rich McKee  
Executive Secretary, Feedlot Division  
March 18, 1986

Mr. Chairman, members of the committee, I am Rich McKee, Executive Secretary of the Feedlot Division of the Kansas Livestock Association. The Kansas Livestock Association has a broad base of farm and ranch members from virtually every geographic corner of the state. A significant percentage of our membership owns land and has a mortgage against such property.

The Kansas Livestock Association supports SB 407 as it was originally introduced by the Special Committee on Assessment & Taxation. We object to the language amended into lines 48 and 49 by the Senate Assessment & Taxation Committee which states, "with the same lender or their assigns". Our members feel as the interim committee did that in refinancing arrangements the mortgage registration tax should be assessed based on the extent to which new credit is being extended, regardless of whether a

different lender is the new mortgagee.

Therefore, the Kansas Livestock Association would ask your committee to consider returning the bill to its original introductory language. With this change the Kansas Livestock Association would urge favorable recommendation for full House consideration.

Thank you for the opportunity to present our views.

Construction Loans. Although the Committee acknowledges that construction loans secured by mortgages have unique characteristics, it concludes that constitutional questions could arise from a proposal attempting to create special tax treatment for this isolated class of mortgages. The Committee, therefore, recommends no change in current law to address this issue.

Change in the Statute Governing Mortgages Covering Multistate Properties. The Committee concludes that use of the "relative assessed valuation" of the various properties as a basis for determining the indebtedness subject to the tax often puts Kansas at a disadvantage because assessment rates differ among the states. (Some states assess at 100 percent; Kansas assesses at 30 percent.) The Committee recommends that the amount of indebtedness be based on the relative fair market value of the properties and incorporates this recommendation in S.B. 407.

Same Lender/Different Lender Distinction in Refinancing Transactions. The Committee concludes that in refinancing arrangements the mortgage registration tax should be assessed based on the extent to which new credit is being extended, regardless of whether a different lender is the new mortgagee. To this end, the Committee recommends S.B. 407, which removes the distinction as to lender in certain refinancing arrangements. The new language in this bill also reflects the Committee's recommendation to clarify that the exemption applicable to wraparound mortgages should be based on the amount of principal indebtedness secured by the previously recorded mortgage and not on the amount of the mortgage being recorded.



HOUSE ASSESSMENT AND TAXATION COMMITTEE

HEARING ON SB 462

TUESDAY, MARCH 18, 1986

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY BOARD OF COMMISSIONERS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS GERRY RAY, INTERGOVERNMENTAL COORDINATOR FOR JOHNSON COUNTY BOARD OF COMMISSIONERS. THANK YOU FOR ALLOWING ME TO APPEAR IN SUPPORT OF SB 462 WHICH WOULD ALLOW THE COUNTY COMMISSIONERS IN THE FOUR LARGEST COUNTIES IN KANSAS TO APPOINT ADVISORY HEARING PANELS FOR THE PURPOSE OF CONDUCTING PRELIMINARY HEARINGS ON APPEALS RESULTING FROM THE STATEWIDE REAPPRAISAL.

IN JOHNSON COUNTY THERE ARE 130,000 PARCELS OF LAND TO BE REAPPRAISED. IF ONLY 5% COME BEFORE THE COUNTY COMMISSIONERS FOR HEARING, IT WILL AMOUNT TO 6,500 CASES. I THINK WE WILL ALL AGREE THIS IS QUITE A LARGE CASE LOAD FOR ONE BOARD TO DEAL WITH. BY ALLOWING THE APPOINTMENT OF HEARING PANELS TO CONDUCT PRELIMINARY HEARINGS ON THESE APPEALS THE CASES CAN BE EXPEDITED IN A MORE TIMELY MANNER. AN ADDITIONAL ADVANTAGE IS THE STIPULATION THAT THE APPOINTEES TO THE PANELS MUST HAVE BACKGROUND IN THE APPRAISAL OF PROPERTY. WE FEEL THIS WILL BE A BENEFIT TO THE APPELLANTS. IT MUST BE EMPHASIZED THAT THE COUNTY COMMISSIONERS WILL MAKE THE FINAL DECISION ON THE APPEALS CASES. THUS, THIS IS NOT A MEANS TO DELEGATE THE ELECTED OFFICIALS RESPONSIBILITY IN THIS AREA.

JOHNSON COUNTY ASKS YOUR SUPPORT OF SB 462 AS A PROCESS TO PROVIDE CITIZENS BETTER EXPERTISE AND EFFICIENCY TO RESOLVE THEIR APPEALS ON THE APPRAISAL OF THEIR PROPERTY.

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3/18/86

Proposed amendment to SB 462  
(As amended by Senate Committee)

On page 3, after line 114, by inserting a new section to read as follows:

"Sec. 2. K.S.A. 74-2433 is hereby amended to read as follows: 74-2433. There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of five members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Not more than three members of the board shall be of the same political party. Members of the board shall be residents of the state and one shall be appointed from each of the five congressional districts of Kansas. The members of the board shall be selected with special reference to training and experience for duties imposed by this act. Members shall hold office for terms of four years. If a vacancy occurs on the board, the governor shall appoint a successor to fill the vacancy for the unexpired term. The board shall select one of its members to serve as chairperson. ~~Three-chairperson--[\*]--members of--the--board--shall--constitute--a--quorum--for--the--transaction--of business--and~~ The votes of three members shall be required for any action to be taken by the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

Any member of the state board of tax appeals may be removed by the governor for cause, after public hearing and at least 10 days' notice.

The state board of tax appeals shall have no capacity or power to sue or be sued.";

Also, on page 3, in line 115, after "K.S.A." by inserting "74-2433 and K.S.A."; also, in line 115, by striking "is" and inserting "are";

By renumbering existing sections 2 and 3 as sections 3 and

4, respectively;

In the title, in line 21, after the semicolon by inserting "authorizing the state board of tax appeals to conduct business without a quorum;"; also, in line 21, after "K.S.A." by inserting "74-2433 and K.S.A."; in line 22, by striking "section" and inserting "sections"

THE STATE



OF KANSAS

BOARD OF TAX APPEALS

1030-S, STATE OFFICE BUILDING

Telephone 296-2388 AC-913

TOPEKA, KANSAS 66612-1582

Fred L. Weaver, *Chairman*

Dallas E. Crable, *Member*

John P. Bennett, *Member*

Robert C. Henry, *Member*

Keith Farrar, *Member*

March 17, 1986

To: Rep. Sandy Duncan, Chairman, Ways and Means Subcommittee

From: Board of Tax Appeals

Re: Budget request and Plan for handling present backlog and reappraisal caseload.

In order for the Board to handle the anticipated increase in caseload resulting from reappraisal, we are requesting authority for single member hearings.

Present statutes require a quorum for the transaction of business. This requirement needs to be changed to allow an individual board member to hear small cases such as residential property cases, no fund warrants and some of the more routine type of exemptions.

A check of other states indicate that all have authority for one member hearings. Some, like Missouri, have hearing officers that conduct hearings and report findings to the Missouri Tax Commission for final determination.

Allowing single members to hear small cases while maintaining the requirement for three members to agree to finalize an order, would provide the same oversight the Board now practices. Many cases which do not require a hearing are presently reviewed by a single member, a recommendation is then made to the full Board for consideration and final action. The

Board would continue to sit as a tribunal on all Major cases. This procedure would better utilize the Board Members and also maintain consistency.

Since December 1985, the Board has experienced a dramatic increase in activity which was not fully anticipated. In trying to evaluate our present position and plan for the caseloads sure to come with the implementation of reappraisal, we have made the following observations.

1. Due to economic conditions we have experienced a 32% increase in protest cases, over the same two month period from 578 in 1985 to 767 in 1986. These are cases which by law require a hearing unless both the taxpayer and the county waive such provision.

2. This case load has required a dramatic increase in our clerical workload to date 4,602 letters have been processed and mailed for these protests only.

3. The caseload for Tax Grievances and Exemptions are also on an increase. We are now processing approximately 450 orders of this type a month.

4. Our attorneys are spending at least 30% of their time on the phone. Much of the phone contact has to do with questions regarding reappraisal. This takes attorneys away from their other required responsibilities and is creating a backlog. Further justification for the additional attorney is:

Currently, one attorney must be in hearings, the other attorney is kept busy with the staff or on the phone. This leaves little time for writing orders and research.

The following is a preliminary plan developed by the BOTA, to effectively handle backlog and reappraisal caseload.



The Overall/Long Range Plan for the BOTA

I. The Purpose:

1. To utilize the present staff/the BOTA Members to the fullest extent,
2. To accommodate the public; especially the residential property owner and the small taxpayer,
3. To clear the present docket, making way for the increased case load due to reappraisal, thus avoiding backlog.

II. The How: (A request was made by the BOTA; and the Governor provided a computer and an additional attorney.)

1. Computerization:

A. Why?

1. The present caseload is on the rise; tracking and hand-indexing would require the addition of two file clerks to the case load.
2. The anticipated 16,000 cases--the first year of reappraisal; (given Missouri's experience, this number will run as high the second year). With computerization, the staff will be able to collate and identify the case-load districts; assisting in minimizing travel and providing every taxpayer the opportunity to be heard.

B. The System:

1. Using a file system in concert with PVD's existing system for reappraisal which divides the State into regional district areas.
2. Statutory change to remove the requirement of a quorum necessary for the hearing of small cases.
  - a. The full BOTA would continue to sit as a tribunal on all major cases
3. Governor's authorization to add another attorney to staff per the 1987 budget.
  - a. Three attorneys with expertise in certain areas primarily handling those cases:

1. The areas:

- aa. Residential/Agricultural
- bb. Commercial
- cc. Oil/gas/pipeline/refinery

2. The need for the training of the attorneys:

- aa. General knowledge of appraisal techniques/methods and its application in law,
- bb. Specialized study of the appraisal practices applicable in the commercial, agricultural and oil and gas areas.

- (11) BOTA anticipates a number of appeals on agricultural lands due to a change from market to use value.

II. The Goal - The BOTA has the responsibility to maintain uniform and equitable taxation, with this plan such can be achieved.