

Approved

*Ivan Sand*

Date

*2/22/88*

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at  
Chairperson

1:30 A.M./P.M. on February 17, 1988, 1988 in room 521-S of the Capitol.

All members were present except:

Representative Brown, excused  
Representative Graeber, excused

Committee staff present:

Mike Heim, Legislative Research Dept.  
Bill Edds, Revisor of Statutes' Office  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Tom Groneman, Kansas Registered Deeds Association  
Gerry Ray, Johnson County Board of Commissioners  
Willie Martin, Sedgwick County Board of Commissioners  
Carol Heil, Kaw Valley Arts Council  
E. A. Mosher, Kansas League of Municipalities  
Lee Porter, Editor, Topeka Capital-Journal

Lee Porter testified on HB 2726, stating that he thinks full public disclosure is preferable to limiting publication of notices of municipal bond sales.

Bill Edds gave an overview of HB 2767.

Tom Groneman testified on HB 2767, stating that he supports this bill and that the fees currently charged have not been increased since 1976. He also stated that many items are presented for recording and filing which are extremely illegible. (Attachment 1)

Gerry Ray testified on HB 2767, stating that the Johnson County Commissioners support most of this bill except for the special fund referred to in lines 91 through 98. (Attachment 2)

Willie Martin testified on HB 2767, stating that the Sedgwick County Board of Commissioners supports this bill except for the creation of a special fund referred to in lines 91 through 98. (Attachment 3)

Chairman Sand closed the hearing on HB 2767.

Carol Heil testified in support of HB 2768, stating that the Wyandotte County Commissioners fully support this bill.

Chairman Sand closed the hearing on HB 2768.

E. A. Mosher testified on HB 2670, stating that he has proposed several amendments to this bill. (Attachment 4)

A motion was made by Representative Dean and seconded by Representative Kennard to adopt the amendments to HB 2670 proposed by E. A. Mosher, including the date of 1/1/89 in Section 12. The motion carried.

A motion was made by Representative Francisco and seconded by Representative Dean to remove the word "signs" from line 289 in HB 2670. The motion carried.

A motion was made by Representative Dean and seconded by Representative Sawyer to pass HB 2670 as amended. The motion carried.

The meeting adjourned.



FEBRUARY 17, 1988

To: House Local Government Committee

Fm: Tom Groneman, Chairman Legislative Committee,  
Kansas Register of Deeds Association

Re: House Bill #2767

Chairman Sand, members of the committee, my name is Tom Groneman, I am Register of Deeds from Wyandotte County and Chairman of the legislative committee for the Kansas Register of Deeds Association.

House Bill #2767 was requested by the Kansas Register of Deeds Assoc with the intent to update certain fees charged by the register of deeds, correct problems we have with certain documents presented for recording and to create a special user fee to be used for improving the register of deeds office.

Specific changes we are asking for are as follows:

1. Raise fee for recording second page from \$1 to \$2 (line 29)
2. Change fee for recording plats from \$20 to \$20 per page (line 34)
3. Raise fee for releasing/assigning mortgages from \$2 to \$5 (line 38)
4. To allow the register of deeds, if a document does not have sufficient space for necessary recording information to place the recording information on an added sheet and count it as a page. (line 74)
5. Require size of print or type on documents presented for recording to be at least 8 point, if not it must be accompanied by an exact typewritten copy which will be recorded with the document and counted as additional pages. (line 77)
6. Require a document presented for recording to be of sufficient legibility so as to produce a clear and legible reproduction, if not it must be accompanied by an exact typewritten copy which will be recorded with the document and counted as additional pages. (line 83)
7. Create a special user fee of \$1 per instrument to be used for defraying the cost of computerization, converting records to microfilm or restoring records in the register of deeds office. (line 89)

*Attachment 1  
2/17/88*



Reasons we are asking for these changes are:

1. Recording fees in the register of deeds office were last raised in 1976. Since that time office budgets have more than doubled in most counties. (Attachment I) After re-veiwing fees charged by surrounding states we feel that the proposed recording<sup>FEES</sup> are not out of line and would bring us more in line with the cost of operating our offices. (Attachments II-VI)
2. We are concerned about many of the documents we are receiving for recording today. If a copy of one of these documents were ever needed in court it would be impossible to produce a legible copy when the document recorded was illegible. We need the ability to require a legible document. However, we realize that that there may be a circumstance where the original document is the only document available and if it is not legible or able to be reproduced the recording party could accompany it with an exact typewritten copy. (Attachment VII-X)
3. In many counties the register of deeds office is on the bottom of the totem pole. Therefore, we are asking for a special user fee to be used in the register of deeds office for specific projects. We recognize the fact that county budgets are tight and we see a user fee as a way to upgrade our offices with out putting a further burden on the county general fund.

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County/ Documents	1977 BUDGET	1977 FEES	1987 BUDGET	1987 FEES	1987 NEW Fees	INCREASE
Wyandotte County 23,237	109,191.	120,636.	206,673.	154,794.	216,456.	61,662.
Finney County 5357	29,000.	34,992.	65,715.	39,147.	51,055.	11,908.
Neosho County 3,572	19,000.	15,496.	45,625.	19,753.	25,167.	5,414.

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showing timely and sufficient to set aside a default judgment rendered on ordinary service of process within this state. (506.520).

Service by mail or publication and personal service outside the state is allowed in cases affecting a fund, will, trust estate, specific property or any interest therein, or any res or status within the jurisdiction of the court. (C.R. 54.12, 54.13 & 54.14).

*Service by Mail.*—Party desiring service by mail must file with the judge or clerk an affidavit, verified by oath of the party or of someone in his behalf, for an order for such service. The petition or affidavit must show why service cannot be had in ordinary manner and state name and address of party to be served by mail. The clerk shall serve a copy of summons and of petition by registered mail, addressed to defendant at address furnished by plaintiff, requesting a return receipt signed by addressee only. (C.R. 54.16).

*Service by Publication.*—Party desiring service by publication shall allege in his petition or affidavit, verified by oath of the party or of someone in his behalf, for an order of publication, why service cannot be had in the ordinary manner and give the last known address of defendant or state that the same is unknown. The judge or clerk must issue an order of publication of notice to the defendant, notifying him of commencement of the action, stating briefly the object and general nature thereof, and describing the property, if any, to be thereby affected. The notice must also contain the name of the court and the names of the parties, and state the name and address of plaintiff's attorney, if any, otherwise the plaintiff's address, and the time, at least 45 days after first publication, within which defendant is required to appear and defend, and must notify him that in case of his failure to do so, judgment by default will be rendered against him. Such notice must be published at least once each week for four successive weeks in some newspaper published in county where suit is instituted, if there be a paper published there, which plaintiff or his attorney of record may designate, if not, then in some paper published in this state, which court may designate as most likely to give notice to person to be notified. Within ten days after said order, the clerk must mail a copy of the notice to each defendant whose address has been stated. When one or more of defendants are unborn or the names of one or more defendants are unknown to plaintiff, he may so state in his petition or affidavit for order of publication, and the judge or clerk may issue an order of publication of notice to the unborn or unknown defendants, who may be sufficiently described as the heirs, grantees or successors of the person to whom the property to be affected was last known to have been transferred. Attorney to represent defaulting unborn or unknown defendants may be appointed. The court may require personal service in addition to publication. (C.R. 54.17).

*Personal Service Outside the State.*—Plaintiff may cause a copy of the petition, with a copy of the summons, to be delivered to each defendant residing or being without this state, and at any place within the United States or their territories summoning said defendant to appear and plead within 30 days after service upon said defendant; and if the defendant shall refuse to receive such copy of the petition and summons, and the offer of the officer to deliver same to him, such refusal shall be as effectual service as though such copies were actually delivered to such defendant. Such service may be made by any officer authorized by law to serve process in civil actions within the state or territory where such service is made, or by his deputy, and shall be proved by the affidavit of such officer, or deputy, stating the time and manner of such service, made before the clerk or judge of the court of which affiant is an officer. Such clerk or judge shall certify to the official character of the affiant, and to his authority to serve process in civil actions within the state or territory where such service was made. When such certificate is made by a clerk or judge of a court of record, the same shall be attested by the seal of such court, and when the same is made by a judge of a court not of record, the official character of such judge shall also be certified by the proper officer of the state, under his official seal. Any return of service, made and certified as above provided, shall be prima facie evidence of the facts stated in such return. If the plaintiff, or his attorney of record, shall allege in his verified petition, or at the time of filing same, or at any time thereafter shall make the affidavit required for service by publication, and shall file in said cause proof of service of process on any defendant or defendants, in conformity with the provisions of this paragraph, it shall not be necessary for such plaintiff to obtain the order for service by mail or by publication or to procure the publication provided in the rule. (C.R. 54.20).

Long Arm Statute.—See subhead Outstate Service, supra.

**RAILROADS:** See Carriers.

#### REAL PROPERTY:

Tenancy in severalty, tenancy in common, joint tenancy, tenancy by the entirety (442.450), homestead, and life estates are recognized.

Grant or devise to two or more persons (except executors, trustees or spouses) creates tenancy in common unless expressly declared to be in joint tenancy. (442.450).

Real estate may be conveyed by owner or owners to himself or themselves and others, or one or more of themselves and others, or to one or more or all of themselves, and the conveyance has the same effect as to whether it creates a joint tenancy, tenancy by the entireties, tenancy in common, tenancy in partnership, or a separate ownership, as if it were granted by a stranger who owned the real estate to the persons named as grantees. (442.025).

Rule in Shelley's case is abolished. (442.490; 474.470).

Condominium property law in effect. (448.1-101-210). Time-sharing plans regulated. (407.020-630).

See also topics Courtesy, Deeds, Dower, Homesteads, Husband and Wife, Landlord and Tenant, Mortgages of Real Property, Partition.

#### RECEIVERS:

The circuit court, or any judge thereof in vacation, has power to appoint a receiver whenever such appointment shall be deemed necessary. (C.R. 68.02).

**Bonds.**—Receivers are required to give bonds. (C.R. 68.02).

**Duties of a receiver** are to keep and preserve any money or other thing deposited in court, or that may be subject of a tender, and to keep and preserve all property and protect any business or business interest entrusted to him, pending any legal or equitable proceeding concerning the same, subject to the order of court. (C.R. 68.02).

**Compensation.**—Court allows such sum for services as may be reasonable, and taxes same as costs to be paid as other costs in cause. (C.R. 68.02).

See also topic Executions.

#### RECORDS:

The recorder of deeds in each county has charge of records relating to property.

Uniform Commercial Code adopted. (c. 400). See topic Commercial Code.

**Recordable Instruments.**—It is the duty of recorder to record all deeds, mortgages, conveyances, deeds of trust, bonds, covenants, or other writings of or concerning any lands and tenements, of goods and chattels, when proved or acknowledged according to law; papers and documents concerning land or chattels received from French or Spanish government, marriage contracts and marriage certificates, all official commissions and bonds required to be recorded, and records of births when furnished. (59.330).

It is also the duty of recorder to record any certified copy of any bankruptcy matter required to be filed by Act of Congress. (59.335).

All real estate deeds, except deeds of trust, easement or right-of-way, must contain mailing address of a grantee to be recorded. (59.330[1]).

In cities of over 600,000 population and in all counties of the first class no trustee's or mortgagee's deed may be recorded unless notes or other obligations for the default in payment of which foreclosure was had or affidavit of owner as to loss thereof are produced to recorder. (443.390).

**Place of Recording.**—The recording in the case of real estate must be in the county where the land is situated (442.380).

*For List of Counties and County Seats see first page for this state in Volume containing Geographical Section.*

**Indices** are kept, showing names of grantor and grantee, date of instrument, date of filing for record and description of land. Separate indices are kept for instruments affecting personal property. (59.350-440).

**Requisites for Recording.**—Size of print or type on any document to be recorded shall not be smaller than eight point and if any document to be recorded contains smaller than eight point it must be accompanied by exact typewritten copy which will be recorded contemporaneously with document. Document must be sufficiently legible to produce clear and legible reproduction or exact typewritten copy must accompany document and be recorded contemporaneously. Signatures on documents must have corresponding name typed, printed or stamped underneath signature. (59.310).

All deeds, mortgages, deeds of trust or other instruments conveying lands or tenements or goods and chattels must be acknowledged or approved to be recorded and all deeds, except deeds of trust, easements or rights of way, conveying lands or tenements must contain mailing address of one of grantees. (59.330).

**Recording Fees.**—Fee for recording every deed or instrument, \$5 for first page and \$3 for each page thereafter; for recording plat or survey of a subdivision, \$25 per page of drawings and calculations plus \$5 per page of other material; for recording survey of one tract of land on one page, \$5; copy of recorded instruments, \$2 for first page and \$1 per page thereafter; copy of plat or survey, \$5 per page; certificate or seal, \$1 when not recording an instrument. State user fee of \$1 for all instruments conveying real estate; 25¢ fee for identifying each note to instrument when document is recorded that creates lien against real estate. (59.310).

**Effect of Recording.**—No instrument conveying or affecting the title to real estate is valid, except as between the parties and such as have actual notice, until deposited for record; thereafter notice is imparted to all persons. (442.390-400).

Torrens system not adopted.

**Transfer of Decedent's Title.**—Whether decedent was a resident or a nonresident, administration in Missouri is necessary to free title from his debts, unless claims of creditors are barred by lapse of time. Probate court records should be included in abstracts of title and need not be recorded with recorder of deeds. To provide record evidence in case of testacy, a certified copy of the will must be recorded, within six months after probate, in office of recorder of deeds in each county in which real estate is situated (474.500) and it is customary to record also a certified copy of order admitting will to probate. In case of intestacy, unless the probate records include an affidavit stating date of death and names of surviving spouse, if any, and heirs, such an affidavit must be recorded with recorder of deeds.

Uniform Commercial Code in force. See topic Commercial Code.

**Filing Under Commercial Code.**—Place of recording is office of recorder of deeds of county in which debtor resides and if debtor is nonresident then in office of recorder of deeds of county in which property is located. Filing fee \$2

**Rule in Shelley's Case.**—It is uncertain whether rule is in force. (71 Colo. 401, 207 P. 332).

**Foreign Conveyances or Encumbrances.**—All instruments affecting title to real estate acknowledged or proved in another state before a notary public or other officer empowered by laws of Colorado to take acknowledgments, if the form of acknowledgment is in substantial compliance with laws of state where taken or with requirements in Colorado (see topic Acknowledgments), are deemed prima facie to have been properly acknowledged before proper officers and such instruments or record thereof are prima facie evidence of execution, acknowledgment and delivery thereof. (38-35-105). Instruments affecting title to real property executed in any foreign country may be executed and acknowledged in language of such foreign country but may only be recorded if accompanied by sworn translation into English of instrument, and acknowledgment or proof of execution, as translated, has same effect as if written in English, except not conclusive in challenge to correctness of translation. (38-30-140).

**Discrimination in housing because of handicap, race, color, sex, national origin, marital status, religion, or ancestry by any person having right of ownership, possession, transfer, rental or lease, is prohibited.** (24-34-501, et seq.). Before start of construction of residential project including seven or more residential units, contract must be made with municipality or county where project located to guarantee specific number of units will be constructed for access by handicapped. (9-5-112).

**Soil Analysis.**—Soil and hazard analysis report of land developed for new residence shall be provided to purchaser at least 14 days prior to closing. For sites with significant potential for expansive soils, buyer shall be supplied with additional pertinent information. (6-6.5-101). Failure to so provide shall subject builder or developer to \$500 fine. (6-6.5-101[2]).

**Uniform Simplification of Land Transfers Act not adopted.**

See also topics *Curtsey, Deeds, Dower, Homesteads, Husband and Wife, Landlord and Tenant, Mortgages of Real Property, Partition, and Securities.*

**RECEIVERS:**

A receiver may be appointed by the court in which an action is pending: (1) Before judgment, provisionally, on application of either party, when he establishes a prima facie right to the property, or to an interest therein, which is the subject of the action and is in possession of an adverse party, and such property, or its rents, issues and profits are in danger of being lost, removed beyond the jurisdiction of the court or materially injured or impaired; (2) by or after judgment, to dispose of the property according to the judgment, or to preserve it during appellate proceedings; (3) in other cases where proper and in accordance with established principles of equity. (Rule 66; 33 Colo. 293, 80 P. 908). Receiver may also be appointed under statute where action to foreclose mortgage, deed of trust, or other instrument securing indebtedness has been commenced and it appears that security is inadequate, or property may be damaged or removed so as to render security inadequate. (38-39-112). Receiver may also be appointed after foreclosure and during redemption period to prevent waste. (38-39-113).

**Proceedings.**—Motion may be made to appoint a receiver and when such motion is based on facts not appearing of record, the court may direct that the matter be heard on affidavits, oral testimony and/or depositions. (Rule 43[e]).

**Qualification.**—Receiver must take an oath and furnish bond approved by court and executed to the people of the State of Colorado with sufficient surety in such sum as the court directs. (Rule 66).

**Powers and Duties.**—General equity principles govern. (See 106 Colo. 121, 103 P.2d 7).

**Compensation.**—There is no statute governing compensation of receivers.

**RECORDS:**

Records relating to real property are kept by County Clerk and Recorder of county where property is located. Uniform Commercial Code has been adopted. (4-1-101 et seq.). See topic *Commercial Code*, and subhead *Filing Under Commercial Code*, this topic, for places for filing personal property records.

**Recordable Instruments.**—All deeds, powers of attorney, agreements or other written instruments conveying, encumbering or affecting title to real property, certificates, and certified copies of orders, judgments and decrees of courts of record may be recorded. (38-35-109[1]). All must be recorded to be notice to persons with any kinds of rights, except parties and those with notice, unless instrument may be filed with county clerk and recorder, which filing is deemed equivalent to recording. (38-35-109[1]). Filing of notice of pendency of action shall be notice to all persons thereafter acquiring any interest in property described. (38-35-110).

**Place of Recording.**—Recording is in office of clerk and recorder of county where land is situated. (38-35-109[1]). For list of *Counties and County Seats*, see first page for this state in *Volume containing Geographical Section.*

**Requisites for Recordings.**—Acknowledgment or proof by witnesses is not required. (38-35-106[1]). All documents of title should include immediately preceding or following legal description street address or comparable identifying numbers for property if displayed on property or any building including instruments creating lien on real property, except mechanics and judgment liens (38-35-122[1]), but failure to state address does not render document invalid (38-35-122[3]). Any instrument creating lien on real property, except mechanics liens, when recorded shall include current mailing address of lienor and lienee. Lienor of judgment lien shall place such addresses on document. (38-35-

123[1]). Failure to state mailing address does not render document invalid. (38-35-123[2]). No deed will be recorded without notation of grantee's legal address but acceptance of deed in violation of statute does not make deed invalid. (38-35-109[2]). Power of attorney must be recorded at same place as instrument executed by attorney-in-fact to show grantor's consent. (38-30-123). Any person who offers to have recorded or filed in office of county clerk and recorder any document purporting to create lien against real property knowing or having reason to know that such document is forged, groundless, contains material misstatement or false claim, or is otherwise invalid, shall be liable to owner of such real property for sum of not less than \$1,000 or for actual damages caused thereby, whichever is greater, together with reasonable attorneys' fees. Any grantee or person purportedly benefited by such record forged, groundless, or false document who willfully refuses to release such document of record upon request of owner of real property affected shall be liable to owner for damages of not less than \$1,000, together with reasonable attorneys' fees. (38-35-109[3]). Anyone who violates filing limitations in 38-35-109(3) commits Class 1 misdemeanor. (38-35-109[4]).

**Uniform Simplification of Land Transfers Act not adopted.**

**Recording Fees.**—Recording fee schedule is as follows (30-1-103):

Taking and certifying affidavit	\$ 2.00
Certificate and seal, each	.50
Filing bond and license	3.00
Certificate of magistracy under seal	1.00
Taking acknowledgments	2.00
Recording town and other plats and all documents larger than 8½" x 14"	10.00 per sheet
Entering subsequent taxes paid in tax sale record	3.00 each certificate
Entering certificate of redemption in tax sale record	3.00 each certificate
Recording all other documents	3.00 per page

**Foreign Conveyances or Encumbrances.**—Deeds and acknowledgment or other proof of execution written in foreign country and language must be accompanied by sworn translation into English to be admitted to record. (38-30-140). For validity of foreign conveyances or encumbrances, see topic *Real Property*, subhead *Foreign Conveyances or Encumbrances.*

**Effect of Record.**—No unrecorded instrument is notice to third parties with any kind of rights who first record, except between parties and those who have notice thereof (38-35-109[1]), except that actual notice of assignment of judgments may be required (9 Colo. 112, 10 P. 652). Instrument is notice to parties and those with notice without recording. (42 Colo. App. 8, 591 P.2d 1339). Recording statute classified race-notice. (38-35-109[1]). Proper acknowledgment and recording of any instrument relating to or affecting title to real property is prima facie evidence of due delivery, despite lapse of time between date of instrument and date of recording. (38-35-101[4]). Instruments acknowledged in proper form which have been recorded may be proved in evidence by certified copy of record without further proof of execution. (38-35-104). Unacknowledged or defectively acknowledged instrument which has remained of record for ten years is deemed properly acknowledged. (38-35-106[2]).

**Torrens Act.**—Uniform Land Registration Act adopted. (38-36-101 et seq.). Owner may apply for registration of land (38-36-101) to district court of county where land is situated and court may inquire into condition of title to and any interest in land and may make all orders and decrees necessary to determine, establish and declare title or interest, legal or equitable, as against all persons, known or unknown, and all liens and encumbrances thereon and to declare order, priority and preference as between them and to remove all clouds from title. (38-36-108). Court shall refer application to examiner of titles who shall examine title, search records and file report, including certificate of his opinion on title. (38-36-118). Based on report and results of hearing, if necessary, court shall issue decree of confirmation of title and registration shall be entered which shall bind land and quiet its title. (38-36-130). Every person receiving certificate of title pursuant to such decree and each subsequent purchaser of registered land who takes for value and in good faith shall hold land free from all encumbrances except those noted in last certificate of title in office of registrar of titles and except rights and encumbrances specified by statute. (38-36-133[1]). Thereafter, no title in derogation of that of registered owner shall be acquired by prescription or adverse possession (38-36-137), and subsequent encumbrances or changes in title shall be registered with registrar and on original and duplicate certificates of title and take effect only from time of registration, and new certificates of title shall be issued to subsequent owners of land (38-36-159 to 182). Schedule of registration fees is provided by statute. (38-36-198).

**Transfer of Decedent's Title.**—Transfer of decedent's title to real estate is shown of record by recording personal representative's deed describing, in case of testate estates, will and time and place of probate, and in case of intestate estates, death of decedent. (15-12-711, 907, 908). In all cases, deed should recite date of appointment of personal representative and should note state documentary fee where title is transferred from personal representative to third persons. (15-12-714, 910).

Certified copy of letters, release of Colorado inheritance tax lien and U.S. estate tax lien should also be recorded. If no personal representative has been appointed, marketable title cannot be conveyed until creditors' claims are barred one year after decedent's death. (15-12-803[1][b]).

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IV

Powers and duties are fixed by the order of appointment or subsequent orders issued by the court. (25-1087).

**Compensation.**—If appointed to preserve property or continue a business, receiver may be compensated by a fixed salary or a lump sum allowance. If appointed to liquidate a business compensation is based on a percentage of the cash accounted for. (25-1092).

**Discharge.**—By order of court appointing receiver.

#### RECORDS:

Uniform Commercial Code in effect. See topic Commercial Code.

In counties having a population of less than sixteen thousand, the county clerk is ex officio register of deeds. (23-1502). In all other counties the offices of county clerk and register of deeds are separate.

**Recordable Instruments.**—Deeds, mortgages, and all instruments affecting title to real property (76-238); copy of will with certificate of probate (76-248); articles of incorporation and appointment of resident agent (21-2053); certificate of partnership (67-101).

**Place of Recording.**—Deeds, instruments affecting real property, and certified copy of will covering real property, in office of register of deeds of each county where said real estate or any portion thereof is located. (76-245). Certificate of incorporation must be filed with Secretary of State and county clerk of county where principal office is located. (21-2053). Designation of registered office and agent of foreign corporation must be filed with Secretary of State and with register of deeds of county where registered office is located. (21-2012). Notice of assignment of accounts receivable is filed with county clerk and controlled by Uniform Commercial Code.

For list of Counties and County Seats see first page for this state in Volume containing Geographical Section.

**Filing Under Commercial Code.**—See topic Commercial Code, subhead Material Variations from 1962 Text and 1972 Official Amendments, §9-401; also subhead Filing Fees.

**Requisites for Recording.**—Deeds, mortgages, or instruments affecting real estate must be acknowledged or proved to be entitled to record. (76-241). Witness not required. Only originals will be recorded.

**Recording Fees.**—For recording deed, mortgage, release, recording and indexing will or decree in testate estate, proof of publication, or any other instrument, \$5 per page plus 50¢ per lot or section. For certified copy \$1.50 per page. (33-109). For filing financing statement, continuation, amendment, separate assignment, or full or partial release, \$5 plus \$3 per additional name. 50¢ per lot, 50¢ per attachment, plus \$3 additional if form is larger than standard 5" x 8". No fee for termination statement. (Neb. U.C.C. 9-403).

**Foreign Conveyances or Incumbrances.**—If executed in accordance with laws of place where executed, or the laws of this state, instrument may be recorded in this state. (76-219).

**Effect of Recording.**—Charges all persons with notice from time instrument is deposited with officer for recording. (76-238). Certified copy may be received in evidence. (76-235).

Torrens System is not in force.

**Transfer of Decedent's Title.**—In order to provide record evidence of the transfer of a decedent's title to real estate, certified copies of the will and Nebraska probate (30-238) or, in case of intestacy, certified copy of death certificate and an inheritance tax determination order must be filed in office of register of deeds of each county in which such real estate is located.

**Vital Statistics.**—Department of Health has supervision of registration of births, deaths, marriages and divorces. (71-601). Fee for certified copy of record or search \$5. (71-612). Records may be obtained from Bureau of Vital Statistics, Lincoln Executive Bldg., 1003 "O" Street, Lincoln, Nebraska 68508.

**Establishing Birth Record.**—Any person born in Nebraska whose birth is not registered within one year of date of birth may file application for delayed registration of birth with Bureau of Vital Statistics. If birth occurred after 1905, applicant must pay \$5 search fee. Applicant must be 18 years of age; however, application of minor may be made by father, mother, guardian or attendant at birth. Application must be accompanied by three independent supporting records which are specified in statute. Registrations not supported by minimum supporting evidence will be denied birth certificates. Denial may be appealed by petition to county court of Lancaster County or county of petitioner's residence. If court finds from evidence that person was born in this state, it shall order delayed birth certificate issued. Department of Health shall charge \$5 fee for each application submitted. (71-617-625). As to procedure in case of adopted child, see 71-626, 627.

**Death Certificate.**—Undertaker and physician last in attendance must execute certificate on form prepared by Department of Health showing cause of death, etc., and file same with Registrar where death occurred prior to burial or removal of the body from the county. (71-605). Where death occurred while in military service United States certificate may be recorded with Department of Health. (71-605.01). See also topic Death.

#### REPLEVIN:

Plaintiff in action to recover possession of personal property may at commencement of suit or at any time before answer, request delivery of such property by replevin. (25-1093).

Grounds for replevin are plaintiff's right to immediate possession by virtue of ownership or some interest in specific personal property. (25-1094).

**Jurisdiction.**—Action may be brought in district, county, or municipal court with due regard to jurisdictional amount. See topic Courts.

**Affidavit.**—Before issuance of order of replevin, plaintiff, his agent or attorney, must file with clerk of court in which action is brought an affidavit showing: (1) Description of property claimed; (2) that plaintiff is owner of property or has special ownership or interest therein (stating facts in relation thereto), and that he is entitled to immediate possession of same; (3) that property is wrongfully detained by defendant; (4) that it was not taken in execution on any order or judgment against said plaintiff, or for payment of any fine, tax or amercement assessed against him, or by virtue of an order of delivery or any other mesne or final process issued against him, or that property was taken on execution of judgment or order other than an order of delivery in replevin and that same is exempt from such execution or attachment under laws of state. Attached to affidavit shall be specific request for delivery of property and issuance of order by court to that effect. (25-1093.01). On filing of affidavit, defendant with full knowledge of allegations and effect of plaintiff's request may agree that such delivery be had and execute voluntary waiver under oath of his rights to notice and hearing, in which event court shall order all further proceedings be suspended and property be delivered to plaintiff forthwith. If defendant does not so waive this right, court shall issue temporary order requiring defendant to hold property described, in condition it was at time of order until further order of court. Order shall give notice of hearing at which will be determined rights of possession pending final hearing and at which defendant must show cause why plaintiff should not get possession. Hearing shall be no sooner than seven days and no later than 14 days after service of notice. (25-1093.02). If filed at commencement of suit, notice shall accompany summons. (25-1093.03).

**Order.**—If court finds at hearing plaintiff is entitled to possession, order shall issue and be delivered to sheriff for service and return. Order for delivery will be executed by clerk of court after receipt of order of court that there is sufficient probability that plaintiff has receipt for such service. (25-1093.04 to 25-1094).

**Execution of Order.**—Order is executed by sheriff by taking property and serving copy of order on person detaining property, or leaving copy of order at his usual place of residence. (25-1097). Officer has property appraised (25-1099), and if plaintiff gives proper bond (see infra) delivers property to plaintiff (25-1098).

**Bond.**—In order to secure delivery of property to him, plaintiff must give the officer bond for twice the appraised value thereof, conditioned that plaintiff shall duly prosecute action, pay all costs and damages which may be awarded against him and return property to defendant in case judgment for return of such property is rendered against him. (25-1098). Bond must be given within twenty-four hours from taking of property by officer; otherwise property is returned to defendant. (25-10,100). Defendant may except to sufficiency of sureties in which case they must justify. (25-10,101).

**Repossession by Defendant.**—If, before delivery to plaintiff, defendant executes within 24 hours from levy bond in double property's value, officer must return property. (25-1098).

**Claims of Third Persons.**—No special provision. All persons having any apparent interest may be made parties. (25-326, 327).

**Disposition of Cause.**—If property has been delivered to plaintiff and plaintiff fails to prosecute his action, defendant may have jury impaneled to ascertain his right in property and possession thereof and if jury finds that said property was property of defendant at commencement of action, or that defendant was entitled to possession only at commencement of action, jury must assess damages for defendant, on which finding, together with costs, court renders judgment. (25-10,102). On issue joined and tried, jury must make findings as to ownership of property or right to possession thereof, and if judgment is rendered in favor of defendant, it must be in alternative for return of property or value thereof, in case return cannot be had, or value of possession of same and damages for withholding said property if defendant was entitled to possession only, together with costs of suit. (25-10,103, 10,104). If verdict is for plaintiff, jury must assess damages for illegal detention of property and judgment for same together with costs of suit, must be rendered for plaintiff. (25-10,105). When property has not been taken or has been returned to defendant for want of bond, action may proceed as one for damages only. (25-10,106).

#### REPORTS:

Decisions of Supreme Court are officially reported in Nebraska Reports, and unofficially reported in Northwestern Reporter and Nebraska Supreme Court Journal.

Digests are: Nebraska Digest (West Publishing Company) consisting of 12 volumes and pocket supplement. Covers all Nebraska Reports, Nebraska cases in Northwestern Reporter and Nebraska cases reported in Federal Courts and the United States Supreme Court.

#### SALES:

Uniform Commercial Code in effect. See topic Commercial Code.

Recording of bill of sale is not required by statute, but it may be recorded in office of county clerk; fee, \$5 per page. (33-109).

**Contracts of Sale.**—No statutory limitation as to type size in printed contracts.

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any property or debts to be attached or garnished must be described in notice. Publication proved by affidavit of one having knowledge of publication. (12-2004). It is sufficient to publish once weekly for required publication period, provided same day of week used and notice is unchanged. (25-103).

**Opening Default Judgment.**—Judgment obtained by publication may be opened up within three years, upon notice, and the filing of an affidavit that party had no actual notice of the action while pending, an answer and by payment of costs; but title to property, the subject of the judgment, is not affected in the hands of a purchaser in good faith. (12-2004).

**Long Arm Statute.**—See subhead Personal Service Outside the State.

**Nonresident Motorist.**—See topic Motor Vehicles.

#### PROOF OF CLAIMS:

See Executors and Administrators; Pleading.

**RAILROADS:** See Carriers.

#### REAL PROPERTY:

The owner of land in fee has the right to the surface and to everything permanently set beneath or above it. (60-64).

Estates in real property, in respect to the duration of their enjoyment, are either: Estates of inheritance, or perpetual estates; estates for life; estates for years; or estates at will. (60-22). Every estate of inheritance is a fee, and every such estate, when not defeasible or conditional, is a fee-simple or an absolute estate. (60-23).

**Condominiums.**—A unit ownership estate can be created by express declaration of owner or owners. Space does not permit complete analysis and Code itself should be consulted. (60-501 et seq.).

Estates tail are abolished; and every estate which would be at common law adjudged to be a fee tail is a fee simple. (60-24).

Future estate may be limited by the act of the party who comes in possession at a future day, either without the intervention of a precedent estate, or on the termination, by lapse of time or otherwise, of a precedent estate, created at the same time. (60-28).

Tenancy in common is governed by common law rules.

Joint tenancy in real or personal property may be created by a single instrument, will or transfer when expressly declared therein to be a joint tenancy. Joint tenancy may be created by transfer to persons as joint tenants from an owner or a joint owner to himself and one or more persons or from tenants in common to themselves, or by coparceners in voluntary partition, and such an estate may be created by or for persons who have elected to become bound under any community property act now in existence or which may hereafter be enacted. Adjudication of incompetency does not terminate such an estate.

In event of death of a joint tenant, leaving estate subject to probate, a certified copy of letters testamentary or of administration constitutes prima facie proof of death.

Title as to any tract of real property held by husband and wife will be deemed merchantable without need of judicial determination of death upon filing by surviving tenant with clerk of county where property is located of: (1) Certified copy of certificate of death of deceased joint tenant, (2) affidavit by surviving joint tenant acknowledged by notary public stating that decedent named in such certificate is same person as joint tenant named in previously recorded document, identifying recorded document by book and page where recorded, date of death of deceased joint tenant; and (3) waiver or release of estate tax by Oklahoma Tax Commission or copy of district court order releasing tax liability or affidavit described in (2) above stating that no estate taxes are due. (58-912).

In all other cases of death of joint tenant in real property, surviving tenant or any other person claiming interest in said property may have death judicially determined by filing petition in county court in county where property or some part thereof is located or of decedent's residence, alleging facts of joint tenancy, alleging joint tenant's death, describing real property, and listing heirs or others known to have interest. A hearing will be held not less than ten days after filing of petition and not less than ten days after notice by publication and by mail to those individuals listed whose addresses are known. (58-911).

Interest of joint tenant in such an estate is subject to execution sale, which sale constitutes a severance. (60-74).

**Tenancy by entirety**, in real or personal property, can be created only between husband and wife, and may be created by transfer to persons by entirety from an owner, or a joint owner, to himself and one or more persons, or from tenants in common to themselves, or by coparceners in voluntary partition, and such an estate may be created by or for persons who have elected to become bound under any community property act now in existence, or which may hereafter be enacted. An adjudication of incompetency does not terminate such an estate. In event of death of a tenant by entirety leaving estate subject to probate, a certified copy of letters testamentary or of administration constitutes prima facie proof of death. Interest of tenants by entirety of such an estate is subject to execution sale, and such sale constitutes a severance. (60-74).

See also topics Curtesy; Deeds; Dower; Husband and Wife; Homesteads; Landlord and Tenant; Mortgages of Real Property; Partition; and Records.

**Foreign conveyances or encumbrances** executed and acknowledged prior to 1949 in conformity with law of state where executed are valid as to execution and acknowledgment. (16-37B).

Uniform Vendor and Purchaser Risk Act adopted. (16-201-3).

#### RECEIVERS:

Receiver may be appointed by Supreme Court or district court or any judge of either. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or other jointly interested in a fund, or whose right to property or fund, in or to proceeds thereof, is probable, and where it is shown that property or fund is in danger of being lost, removed, or materially injured; in an action by mortgagee for foreclosure where it appears that mortgaged property is in danger of being lost, removed, or materially injured, and that property is probably insufficient to discharge mortgage debt; after judgment, to carry judgment into effect; after judgment, to dispose of property according to judgment, or to preserve it pending appeal, or in aid of execution; when a corporation has been dissolved or is insolvent or in imminent danger of insolvency or has forfeited its corporate rights; in all other cases where receivers have heretofore been appointed by usages of courts of equity (12-1551); in attachment proceedings (12-1224-5); in quo warranto proceedings against corporations (12-1538); in dissolution proceedings against corporations (18-160); in proceedings against building and loan associations (18-360-1); in proceedings against illegal trusts and pools (79-22-4).

No party or attorney or person interested in the action may be appointed receiver except by consent of all parties thereto. (12-1552). A trust company may act as a receiver. (6-1001). Before entering upon his duties, receiver must take oath and give bond to be approved by court. Receiver has, under control of court, power to bring and defend actions in his own name as receiver, take and keep possession of property, receive rents, collect debts, make transfers, and generally do such acts respecting property as court may authorize. (12-1553-9).

#### RECORDS:

Secured interests are governed by the Uniform Commercial Code. (12A-9-101 et seq.). See topic Commercial Code. Also see topic Chattel Mortgages, subhead Filing.

County clerk is ex officio register of deeds. (19-225). For list of Counties and County Seats see first page for this state in Volume containing Geographical Section.

**Requisites for Recording.**—All instruments affecting in any way title to real estate must be recorded in order to give notice to innocent purchasers and encumbrancers for value, and to be entitled to record, they must be acknowledged before a notary public or some other person authorized to take acknowledgments (16-26) and must under signature affixed thereto, bear printed or typed name of signer thereof (19-261). Also, all instruments affecting in any way title to real estate must adequately describe property affected and must list mailing address of grantee, mortgagee, assignee, or other designated parties to which said instrument is to be delivered or said instrument is not subject to recordation. (19-298).

**Recording Fees.**—County clerk, as register of deeds, charges the following fees: first page \$8, each additional page, \$2; certifying photographic copy, \$1 per page; mechanics' or materialmen's liens, for recording, \$10; for notice, \$8; for each additional page or exhibit, \$2. (28-32).

Use of photostatic records is permitted by vote of county commissioners. (67-91). Custodian of records may permit records to be removed for purpose of copying. (67-301).

**Orders in Bankruptcy Proceedings.**—Certified copies of orders of federal courts in bankruptcy proceeding may be filed and recorded in office of county clerk and thereupon constitute constructive notice. (19-262).

**Effect of Record.**—Every conveyance of real property acknowledged or approved, certified and recorded as prescribed by law is constructive notice of its contents to subsequent purchasers, encumbrancers or creditors, from time of filing for record. (16-16). Any person with legal capacity to own land, who has unbroken chain of title of record to an interest in land for 30 years or more, has marketable title, subject to certain exceptions. All other outstanding interests declared null and void. If 30 year period expired prior to July 1, 1972, period extended to July 1, 1972. (16-71 et seq.).

See also Simplification of Land Titles Act (16-61 et seq.) as to acquisition of marketable title by certain kinds of purchasers for value of interest in real estate as against certain kinds of adverse claimants, wherein determinative time period is ten years. Space limitations preclude analysis herein.

**Torrens Act.**—None.

**Transfer of Decedent's Title.**—Certified copy of judgment or decree of district court, in exercise of its probate jurisdiction, making distribution of real property or determining any matter affecting title to real property must be recorded in office of county clerk of county in which property affected is situated. (58-711).

**Filing Under Commercial Code.**—See topics Chattel Mortgages, subhead Filing; Commercial Code. Proper place to file financing statement is as follows: (a) For consumer goods, farm equipment, farm products, livestock, or accounts or general intangibles relating to sale of farm products, filing is in county clerk's office of county where debtor resides (or if debtor not resident of state then in county where goods are kept), and in addition when collateral is crops filing must be made in county clerk's office of county where land is located; (b) for timber, minerals, accounts described in §9-103(5), or fixtures, filing is in office where real estate mortgage would be recorded; and (c) in all other cases filing is in office of county clerk of Oklahoma County. (12A-9-401). However, to perfect

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# VI

**Nonresident Individuals.**—For mode of service on nonresident motorist see topic Motor Vehicles, subhead Actions against Nonresidents.

Service on nonresident who makes contract to be performed in whole or in part in Iowa or commits a tort in whole or in part in Iowa by serving notice on Secretary of State. Nonresident includes resident at time of tort but later becomes nonresident or a person who has absented himself from state at least six months from commission of tort. (617.3).

**Nonresident Watercraft.**—Nonresident who uses any watercraft on Iowa waters may be served by sending notice to Secretary of State under procedure similar to actions against nonresident motorists. (106A).

**Publication.**—Service may be made by publication when an affidavit is filed that personal service cannot be made on the defendant within this state. Such service is made by publishing notice, in paper selected by the plaintiff, once each week for three consecutive weeks. In every case where service is made upon a known defendant by publication, copy of the original notice must also be sent by ordinary mail addressed to defendant at last known mailing address, unless affidavit of party or his attorney if filed before entry of judgment or decree, stating that no mailing address is known and that diligent inquiry has been made to ascertain it. Such copy of notice must be mailed not less than 20 days before date set for appearance. Proof of such mailing must be by affidavit filed before entry of judgment or decree. (R.C.P. 60.1).

Service by publication may be had in the following cases: for recovery of real property or any estate or interest therein; for the partition of real or personal property in Iowa; to foreclose a mortgage, lien, encumbrance or charge on real or personal property; for specific performance of a contract for sale of real estate; to establish, set aside or construe a will, if defendant resides out of Iowa, or if his residence is unknown; against a nonresident of Iowa or a foreign corporation which has property, or debts owing to it in Iowa, sought to be taken by any provisional remedy, or appropriated in any way; against any defendant who, being a nonresident of Iowa, or a foreign corporation, has or claims any actual or contingent interest in or lien on real or personal property in Iowa which is the subject of such action, or to which it relates; or where the action seeks to exclude such defendant from any lien, interest or claim therein; against any resident of the state who has departed therefrom, or from the county of his residence, with intent to delay or defraud his creditors, or to avoid service, or who keeps himself concealed with like intent; for divorce or separate maintenance or to modify a decree in such action, or to annul an illegal marriage, against a defendant who is a nonresident of Iowa or whose residence is unknown; to quiet title to real estate, against a defendant who is a nonresident of Iowa, or whose residence is unknown; against a partnership, corporation or association sueable under a common name, when no person can be found on whom personal service can be made; to vacate or modify a judgment or for a new trial under Rules 252 and 253. (R.C.P. 60).

Personal judgment cannot be had against any defendant served with notice by publication. When publication is completed, proof of publication by affidavit of the publisher must be filed with the clerk. (R.C.P. 63).

#### PROOF OF CLAIMS:

See topics Executors and Administrators; Pleading.

**RAILROADS:** See topic Carriers.

#### REAL PROPERTY:

Among estates recognized are: fee simple, legal, equitable, tenancy in common, joint tenancy, life estate; also the various uses and remainders. (557).

Conveyances to two or more are construed as creating a tenancy in common unless intent to create joint tenancy is expressed. (557.15).

Tenancies by the entirety are not recognized. (201 Ia. 1290, 207 N.W. 369). Rule in Shelley's Case does not obtain. (557.20).

**Condominiums.**—Horizontal property act adopted. (499B). Co-operative apartments also provided for. (499A).

See also topics Consumer Protection; Curtesy; Deeds; Dower; Homesteads; Husband and Wife; Landlord and Tenant; Mortgages of Real Property; Partition; Records.

#### RECEIVERS:

On the petition of either party to a civil action or proceeding, where he shows that he has a probable right to or interest in any property which is the subject of the controversy, and that such property or its rents and profits are in danger of being lost or materially injured or impaired, the court, or in vacation, the judge thereof, may appoint a receiver to take charge of such property during the pendency of the action. (680).

See also topic Corporations.

#### RECORDS:

No instrument affecting real estate is valid against subsequent purchasers for value without notice unless filed in office of recorder of deeds of county in which same lies. (558.41). For list of Counties and County Seats see first page for this state in Volume containing Geographical Section. No instrument deemed lawfully recorded unless previously acknowledged in manner prescribed. (558.42). Names of signers must be typed or printed legibly beneath signatures, or affidavit containing typed or printed names must accompany instrument to entitle instrument to recordation or filing. (335.2). No deeds or other instruments

unconditionally conveying real estate will be recorded until entered for taxation upon transfer books in office of county auditor. (558.57).

Uniform Commercial Code adopted. (554). See topic Commercial Code.

**Filing Under Commercial Code.**—In §9-401, relating to place of filing to perfect security interest, second alternative subsection has been adopted as subsection (1). Proper office for filing pursuant to this subsection is office of County Recorder or secretary of state (Secretary of State, UCC Filings, Hoover State Office Building, Des Moines, IA 50319), depending on nature of collateral. If on form conforming to standards prescribed by secretary of state, filing fee shall be \$4. If statement is not on form conforming to standards prescribed by secretary of state, but otherwise conforms to requirements of law, filing fee shall be \$5. ~~For each page or fraction thereof.~~ \$5 for each page or fraction thereof. (335.14).

**Torrens Act.**—No Torrens Act or other statute for registration of land titles is in force.

**Transfer of Decedent's Title.**—Probate records are sufficient to show transfer to decedent's devisees or heirs of his title to real estate in county where estate was administered. Certified transcript of probate proceedings should be filed with clerk of district court in any other county in which real estate of decedent is situated in order to show transfer of title thereto. If decedent was a nonresident, ancillary administration is usually necessary, although in some situations where the statute of limitations has run or security for claims of creditors has been given the filing of a transcript of foreign probate proceedings may be accepted as showing merchantable title, save for showing as to inheritance tax.

**Vital Statistics.**—Reports of births and deaths must be made to local registrar of vital statistics; of marriages to clerk of district court of county where solemnized. (144).

Copies of birth, death or marriage certificates may be obtained from Clerk of District Court of county or from State Registrar of Vital Statistics, Iowa State Department of Health, Records Division, Lucas Building, Des Moines, Iowa 50319. Fee, \$4.

**Establishing Birth Records.**—Department of Vital Statistics will issue a certificate on presentation of prescribed evidentiary requirements. (144.15).

#### REDEMPTION:

See topics Executions; Liens; Mortgages of Real Property; Taxation.

#### REPLEVIN:

(643).

An action of replevin may be brought in any county in which the property or some part thereof is situated.

Petition must be verified and must state:

1. A particular description of the property claimed.
2. Its actual value and where there are several articles, the actual value of each.
3. The facts constituting the plaintiff's right to the present possession thereof, and the extent of his interest in the property, whether it be full or qualified ownership.
4. That it was neither taken on the order or judgment of a court against him, nor under an execution or attachment against him, or against the property; but if it was taken by either of these modes, then it must state the facts constituting an exemption from seizure by such process.
5. The facts constituting the alleged cause of detention thereof, according to his best belief.
6. The amount of damages which the affiant believes the plaintiff ought to recover for the detention thereof.

Bond must be filed with clerk for use of any person injured by proceeding. (643.6). When plaintiff desires immediate delivery of property, he must execute bond to defendant, with sureties approved by clerk, in double value of property conditioned upon plaintiff appearing and prosecuting action to judgment and returning property if ordered to do so. (643.7).

**Writ.**—Upon direction of court after notice and opportunity for such hearing as court may prescribe, clerk shall issue a writ directed to proper officer requiring him to take property described and deliver it to plaintiff. (643.5). If petition shows that property has been wrongfully removed into another county from one in which action is commenced, writ may issue from county whence property was wrongfully taken, and may be served in any county where it may be found. (643.8).

**Retention by Defendant.**—Before delivery to plaintiff, the defendant may stay delivery and retain possession by executing a bond with sureties to be approved by the clerk or sheriff.

**Concealment.**—When it appears by affidavit that the property claimed has been disposed of or concealed so that the writ cannot be executed, the court upon verified petition therefor, may compel the attendance of the defendant or other person claiming or concealing the property, and examine him on oath as to the situation of the property, and punish a wilful obstruction or hindrance or disobedience of the order of court in this respect, as in case of contempt.

**Claims of Third Persons.**—If a third person claims the property or any part thereof, the plaintiff may amend and bring him in as a co-defendant or the defendant may obtain his substitution by the proper mode, or the claimant may himself intervene by the process of intervention. (643.4).

**Judgment.**—The judgment must determine which party is entitled to the possession of the property and designate his right therein and, if such party has not

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146387

NO 3134 REC 571

PARKING LOT JOINT USE AGREEMENT

This Agreement made this 7 day of April, 1986, by and between KAM VALLEY INVESTMENT CO., a Missouri corporation ("Seller"), and THE CITY OF EDWARDSVILLE, KANSAS ("Buyer").

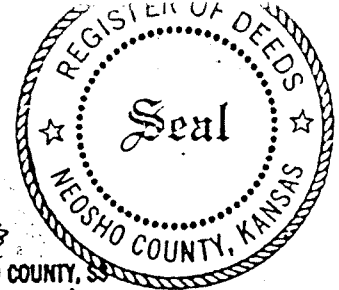
WITNESSETH:

In consideration of the mutual covenants, agreements, and representations contained in this Agreement, the parties hereto agree as follows:

Section 1. The parties have entered into a Purchase and Sale Agreement as of the 27th day of February, 1986, in which a parking lot joint use agreement as set out hereinbelow appears as an exhibit but which is being set out herein as a separate agreement so that it can be registered with the Register of Deeds.

Section 2. The said subject Purchase and Sale Agreement by and between Seller and Buyer concerns itself with certain lands and improvements being acquired by the Buyer, which lands are set out in Exhibit A attached hereto and incorporated herein by reference as if it were fully set out. Included in this property is a considerable amount of developed parking space adjacent to the building also being acquired. This "Joint Use" agreement concerns said parking space and parking space contiguous thereto which will remain the property of the Seller.

Section 3. It is agreed and understood that while the City is acquiring certain portions of the Shopping Center parking lot and the Sellers are retaining certain portions of the subject Shopping Center parking lots that both parties, their clients, visitors, and the general public will at all times continue to have the right to use all portions of the Shopping Center facilities, regardless of the ownership by either party for parking purposes. The exception to open and public use of the Shopping Center facilities parking space will be that the City has the right (under this Agreement) to designate certain twelve (12) "Reserved" parking spaces for portions of the parking lot being acquired herewith at its discretion. It is understood that these spaces should be for City Officials, City Council Members, Chief, City Clerk, Mayor, Council Members, etc. An exception to this "Joint Use" Agreement is that the City has the right to develop or to build on subject property, and to acquire if the City ever desires or needs to do so.



**VII**

35082

STATE OF KANSAS, NEOSHO COUNTY, KS  
ENTERED AND FILED IN VOL 1054 PAGE

10-15-87 AT 9:05 O'CLOCK A.M.

*Audra S. Barnhart*  
REGISTER OF DEEDS

INHERITANCE TAX

CLOSING LETTER

July 21, 1987

Barbara J. Russell  
1000 S. Durand  
Topeka, KS 67106

Re: E. F. Russell, Dec'd  
Date of Death: September 25, 1980  
County: Grant  
File No. 86071  
SS-7513-16-0031  
Date Tax Due: June 25, 1987  
Tax Paid: \$57.00  
Interest Paid: \$0.00

This letter is evidenced that the amount of the Kansas inheritance tax applicable to the distributive shares of the estate of the above named decedent has been finally determined and has been paid. This determination is valid only to the extent of the assets reported on the return, and the lien of the State of Kansas is released only to that extent. See below the legal description of real estate reported on the return:

und. 1/2 int. in:

a. SW/4 Sec. 15-208-37N, Grant County, KS surface	\$	24,000.00
minerals (1 producing gas well)	\$	10,500.00
b. N. 40 ft. Lt. 4 and all of Lt. 5, blk. 10, Henry Miller Add. to Ulysses, Grant County, KS	\$	55,000.00
c. Pt. 1, blk. 34, City of Ulysses, Grant County, KS	\$	65,000.00
d. Lt. 4 and N. 5 ft. Lt. 3, blk. 100, High School Add. to Ulysses, Grant County, KS	\$	13,750.00
e. N. 1/2 Lt. 2 and 1/2 Lt. 4, blk. 34, City of Ulysses, Grant County, KS	\$	24,750.00
2. In Joint Tenancy: An und. 1/4 int. in: The SW/4 of Sec. 17-275-19E, Neosho County, KS decedent's 1/2 int.	\$	5,156.25

CS:g/801/4276/7

*Carol B. Bonbrugh*  
Director of Taxation

cc: Jack D. Flecher, Atty., 713 First Natl. Bank Bldg., Wichita, KS 67202  
District Court, Probate Division, Grant County, Ulysses, KS 67860



10 37402

IX

3340-292

Check Warr.

QUIT CLAIM DEED

THIS DEED, Made this 10<sup>th</sup> day of AUGUST A.D., 1967

of BARBARA ANN RYCKEN, A SINGLE PERSON

of JOHN W. County, in the State of KANSAS, of the first part, and

MARTHA J. SPENCER, A SINGLE PERSON

of JOHN W. County, in the State of KANSAS, of the second part.

WITNESSETH, That said party of the first part, in consideration of the sum of ONE DOLLAR AND OTHER VALUABLE CONSIDERATIONS, to be duly paid, the receipt whereof is hereby duly acknowledged, has sold, sold by her, her heirs, assigns, heirs, GRANT, BARGAIN, SELL, RELEASE AND FOREVER QUIT CLAIM unto the said parties of the second part, their heirs and assigns forever, all the following described tract, piece, and parcel of land, situated in the County of Wyandotte and State of Kansas, to-wit:

LOT 2, 12, 13, 20, REDWOOD GARDENS, NE 1/4 AND 2, PART OF A 1/4 SEC 27, WYANDOTTE COUNTY, KANSAS

together with all and singular the the hereditaments and appurtenances thereto in any wise appertaining: TO HAVE AND TO HOLD the said premises unto the said parties of the second part their heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand, the day and year first above written.

*Barbara Ann Rycken*  
BARBARA ANN RYCKEN

1-11

11700 2

(Producers)

B W

OIL AND GAS LEASE

OKLA. & COLO. 1963 Rev. (JW)

OKLA. & COLO. 1963 Rev. (JW)

**X**

9th day of November 1984

AGREEMENT made and entered into this 9th day of November 1984 by and between Louise M. Moore, Individually and as Administrator of the Estate of

Francis J. Moore, dec'd Ashland, KS 67831 lessor (whether one or more), and Mitchell Energy Corporation 2001 Timberlock Pl. Woodlands, TX 77386 lessee

WITNESSETH: That the lessor, for and in consideration of Ten or more Dollars (\$10.00) in hand paid, the receipt and sufficiency of which is hereby acknowledged, and the covenants and agreements hereinafter contained, does hereby grant, demise, lease and let unto the said lessee, exclusively, its successors and assigns, the following described land for the purpose of carrying on geological, geophysical and other exploratory work, including core drilling, and the drilling, mining, operating for, producing and saving of oil, gas, gas condensate, gas distillate, casinghead gas, casinghead gasoline, and all other gases and their constituent parts, and other minerals produced in connection with oil and gas operations hereunder, or as a by-product of oil and gas operations, and the exclusive right of injecting water, brine and other fluids and substances into the subsurface strata, with rights of way and easements for laying pipe lines, telephone and telegraph lines, tanks, power houses, stations, ponds, roadways and other fixtures or structures for producing, treating and caring for such products, and any and all other rights and privileges necessary, incident to or convenient in the economical or efficient operation, alone or conjointly with other lands, of said land for the production of said products or substances and the erection of structures thereon to produce, save and take care of said products and substances and the injection of water, brine and other substances into the subsurface strata of said tract of land, together with any reversionary rights therein, said tract of land being situated in the County of Clark State of Kansas and described as follows, to-wit:

North Half (N½)

of Section 35 - Township 32 South adjacent or contiguous to and owned or claimed by this lease, be considered as containing exactly 32 TO HAVE AND TO HOLD the same (subject to years from this date) to the said lessee called "Primary Term" produced from said lease premises or operations for the In consideration of the premises, it is hereby mutually agreed that the lessor shall pay to the lessee 1. To deliver free of cost, to the lessor at the producing and saved from the lease premises or at the prevailing on the day such oil is run into the pipe line 2. On gas, gas condensate gas distillate, casinghead gas, gas condensate gas, gas distillate, casinghead gas, and other minerals produced in connection with oil and gas operations hereunder, or as a by-product of oil and gas operations, and the exclusive right of injecting water, brine and other fluids and substances into the subsurface strata, with rights of way and easements for laying pipe lines, telephone and telegraph lines, tanks, power houses, stations, ponds, roadways and other fixtures or structures for producing, treating and caring for such products, and any and all other rights and privileges necessary, incident to or convenient in the economical or efficient operation, alone or conjointly with other lands, of said land for the production of said products or substances and the erection of structures thereon to produce, save and take care of said products and substances and the injection of water, brine and other substances into the subsurface strata of said tract of land, together with any reversionary rights therein, said tract of land being situated in the County of Clark State of Kansas and described as follows, to-wit: 3. If gas from any well or wells on the premise period of one (1) year or more during which time the sum equal to the delay rentals provided in paragraph of all the terms of this lease, including the habendum 4. On all other minerals produced and marketed, of the actual amount received by the lessee. 5. If any gas well on the lease premises produce using such surplus gas for stoves and inside lights in of oil, distillate, condensate, gas, casinghead gas, gas lessor's wells and tanks for all operations hereunder. 6. If operations for the drilling of a well for oil wise provided, shall terminate as to both parties unless

*Classic example of poor quality copies being used for leases here*

ips and goes the terms of 3) erals may be rt of all oil and gravity emises or la tances where event more soline for a nual period the meaning used. ignnt (1/8th) expense, of ve free use water from pt as other-

Citizens State Bank (or to any bank successors are lessor's agents and shall continue as the depository bank regardless of changes in the ownership of said land or the right to receive rentals, the sum of

Three Hundred Twenty-Dollars (\$ 320.00), which shall operate as a rental and cover the privilege of deferring the commencement of operations for the drilling of said well for a period of one (1) year from said date. In a like manner and upon like payments or tenders, the commencement of operations for the drilling of said well may be further deferred for like periods successively. It is understood and agreed that the consideration first recited herein, the down payment, covers all the privileges, of said well may be further deferred for like periods successively. It is understood and agreed that the consideration first recited herein, the down payment, covers all the privileges, and options and other rights conferred upon the lessee. Lessee may, at any time, execute and deliver to lessor or piece of record a release or releases covering any portion or portions of the above described premises, as to any or all horizons, and thereby surrender this lease as to such portion or portions and be relieved of all obligations as to the portion surrendered, and where a part or portion of this lease is released as to all horizons, then rentals thereafter payable hereunder may be reduced in the proportion that the acreage covered by this lease is reduced by said release or releases. Payment or tender of rental may be made by draft or check of the lessee, transmitted, delivered or mailed to the authorized depository bank or to the lessor at his last known address (as shown by lessee's records) on or before the rental date, and the payment or tender shall be deemed to have been made when the check or draft is so transmitted, delivered or mailed.

7. It is expressly agreed that if lessee shall commence operations for the drilling of a well at any time while its lease is in force, this lease shall remain in force and its term shall continue for so long as such operations are prosecuted and, if production results therefrom, then so long as such production may continue. Should the first well drilled on the above described land be a dry hole or fail to establish production, then and in that event if a second well is not commenced on said land within twelve (12) months following the expiration of the last rental period for which rental has been paid (or within twelve (12) months from the first anniversary of this lease if such well is drilled during the first year of the primary term), this lease shall terminate as to both parties unless the lessee on or before the expiration of said twelve (12) months shall resume or commence the payment of rentals in the same amount and in the same manner as hereinbefore provided. If, within the primary term of this lease, production on the lease premises shall cease from any cause (other than a cessation contemplated in paragraph 3), this lease shall not terminate provided operations for the drilling or reworking of a well shall be commenced before or on the next ensuing rental paying date falling more than ninety (90) days after such cessation; or, provided lessee begins or resumes the payment of rentals in the manner and amount hereinbefore provided. If, after the expiration of the primary term of this lease, production on the lease premises shall cease from any cause (other than a cessation contemplated in paragraph 3), this lease shall not terminate provided lessee resumes or commences operations for the drilling or reworking of a well within ninety (90) days from the date of such cessation, and this lease shall remain in force and effect during the prosecution of such operations, and if production results therefrom, then as long as such production continues or the well or wells are capable of producing.

8. Where required by lessor, lessee shall bury all pipe lines below ordinary plow depth in cultivated land. Lessee shall pay lessor for damages caused by lessee's operations to all cultivated crops growing on said land. Lessee shall have the right, but shall not be obligated, at any time, either before or after expiration of this lease, to remove all fixtures and other property placed by lessee on the lease premises, including the right to draw and remove all casing. Any structures and facilities placed on the lease premises by lessee for operations hereunder and any well or wells on the lease premises drilled or used for the injection of salt water or other fluids may also be used for lessee's operation on other lands in the same area. The right to so use such facilities may be continued beyond the term of this lease by payment in advance of the sum of One Hundred Dollars (\$100.00) per year. No well shall be drilled nearer than 200 feet to any house or barn now on the premises without the consent of lessor.

9. Lessee is granted the right, from time to time while this lease is in force, to pool into a separate operating unit or units all or any part of the land covered by this lease with other land, lease or leases, or interest therein (whether such other interests are pooled by a voluntary agreement on the part of the owners thereof or by the exercise of a right to pool by the lessee), when in lessee's judgment it is necessary or advisable in order to promote conservation, to properly develop or operate the land and interests to be pooled, or to obtain a multiple production allowable from any governmental agency having control over such matters. Any pooling hereunder may cover all oil and gas, or any one or more of the substances covered by this lease, and may cover one or more or all zones or formations underlying all or any portion or portions of the lease premises. Any unit formed by such pooling shall be of abutting or conforming tracts and shall not exceed 640 acres for gas, gas distillate or gas condensate and shall not exceed 80 acres for any other substance covered by this lease, provided that if governmental regulation or order shall prescribe a spacing pattern for the development of a field wherein the above described land, or a portion thereof, is located, or allocate a producing allowable based on acreage per well, then any such unit may embrace as much additional acreage as may be so prescribed or as may be permitted in such allocation of a lower acreage per well. The area pooled and the zones or formations and substances pooled shall be set forth by lessee in a "Declaration of Pooling" filed for record in the county or counties in which the pooled area is located. Such pooling shall be effective on the date such declaration is filed unless a later effective date is specified in such declaration. In the absence of such declaration, the pooling shall be effective on the date of production from an area so pooled only such portion of the royalties which, in the land covered by this lease which is placed in the pooled area bears to the amount of the surface acreage of the entire pooled area. Nothing herein contained shall authorize or effect any transfer of ownership or interest in the pooled area, or the commencement of a well, the conduct of other drilling operations, the completion of a well or of such drilling operations were conducted upon, the lands covered by this lease whether or not such well is located upon, or such drilling operations are conducted upon, said lands. Lessee may terminate any pooling effected pursuant hereto at any time the pooled unit is not capable of producing and no drilling operations are being conducted thereon by executing and filing of record in the county or counties in which the pooled area is located a written declaration of the termination of such pooling, provided that the pooling of all interests not covered by this lease which comprise a part of such pooled unit be also terminated in some effective manner.

10. The rents and royalties hereunder may be assigned in whole or in part and the provisions hereof shall extend to their heirs, successors and assigns, but no change or division in the ownership of the land and rental or royalties, however accomplished, shall operate or be construed so as to enlarge or increase the obligations or burdens of the lessee, or diminish its rights. Should the lessee, by way of limitation of the foregoing, the lessee shall not be considered for all purposes (except for royalty purposes) the same as if said well were located on or near the leased premises at some measuring or recording tanks. Notwithstanding any actual or constructive knowledge of or notice to the lessee, no change in the ownership of said land or the right to receive rentals or royalties hereunder, or any interest therein, however accomplished, shall be binding on the lessee (except at lessee's option) until thirty (30) days after lessee has been furnished with written notice thereof, together with the supporting information hereinafter referred to, by the party claiming as the result of such change in ownership or interest. Such notice shall be supported by original or certified copies of all recorded documents and other instruments or proceedings necessary in lessee's opinion to establish the ownership of the claiming party. All advance payments of rentals made hereunder within thirty (30) days after receipt of said documents shall be binding on any direct or indirect assignee, grantee, devisee, administrator, executor, heir or successor to the lessor. In the event of an assignment or sublease of this lease as to segregated portions of the land above described the rental payments hereunder shall be apportioned as to the several leasehold owners (including sublessees) ratably according to the surface area of each, and default in the rental payment by one shall not affect the rights of the other leasehold owners.

11. In the event lessor considers that the lessee has failed to comply with any obligation hereunder, express or implied, lessor shall notify lessee in writing, specifying in what respect lessor claims lessee has breached this lease. The service of such notice and elapse of sixty (60) days without lessee meeting or commencing to meet the alleged breaches shall be a condition precedent to any action by lessor for any cause. If, within sixty (60) days after the receipt of such notice lessee shall meet or commence to meet the breaches alleged by lessor, lessee shall not be deemed in default hereunder.

12. If lessor owns a less interest than the entire fee or mineral estate (whether or not a lesser interest is stated above), the rentals and royalties herein provided shall be paid to lessor only in the proportion that his interest bears to the entire fee or mineral estate. If, however, during the term of this lease any reversion of interest to lessor should occur, then and in that event on the next succeeding rental anniversary after lessor shall have notified lessee of the occurrence of such reversion and shall have furnished lessee with satisfactory proof thereof, the rental shall be increased to cover the additional interest so acquired by the lessor.

13. All provisions hereof express or implied shall be subject to all federal and state laws and the orders, rules and regulations of all governmental agencies administering the same (and interpretations thereof by such agencies or courts having jurisdiction), and this lease shall not in any way be terminated wholly or partially nor shall the lessee be liable in damages for failure to comply with any of the express or implied covenants hereof if such failure is caused by any such laws, orders, rules or regulations (or interpretations thereof by said agencies or courts having jurisdiction). If lessor should be prevented during the last six (6) months of the primary term hereof from drilling a well hereunder due to equipment necessary in the drilling constituted authority having or asserting jurisdiction thereover, or if lessee should be unable during said period to drill a well hereunder due to equipment necessary in the drilling or completion thereof not being available from any cause, the primary term of this lease shall continue until six (6) months after said order is suspended and/or said equipment is available.

14. This lease and all of its terms and conditions shall be binding upon all successors of the lessors and the lessees. Should any one or more of the parties above named as lessors fail to execute this lease, it shall nevertheless be binding upon all lessors who do execute it. Notwithstanding any language herein to the contrary, it is expressly understood and agreed that any payment or payments made by the lessee to the owner of any interest subject to this lease shall be sufficient payment hereunder as to such interest notwithstanding the joinder herein of the spouse of any such party as a party-lessor for the purpose of waiving homestead, dower or inchoate rights of inheritance, if any.

15. Lessor hereby warrants and agrees to defend the title to the land above described and agrees that the lessee shall have the right at any time to redeem for lessor, by payment, any mortgage, taxes or other liens on the above described land in the event of default of payment by the lessor and the lessee shall be subrogated to the rights of the holder thereof, and lessor hereby agrees that any such payments made by the lessee for the lessor may, at lessee's option, be deducted from any amounts of money which may become due or payable to the lessor under the terms of this lease.

IN WITNESS WHEREOF, we sign this as of the day and year first above written. All above references herein to 1/8 royalty are hereby amended to read 3/16 royalty.

Louise M. Moore  
Louise M. Moore, individually and as Administrator of the Estate of Francis J. Moore

SS# 509-62-9094  
NMM 10.2

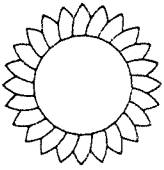
VI

If sufficient space is not provided for the necessary recording information and certification on a document, such recording information shall be placed on an added sheet and such sheet shall be counted as a page. (10 Point)

The size of print or type on any document to be recorded shall not be smaller than 8 point. Should any document to be recorded contain type smaller than 8 point, such document shall be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document and shall be counted as additional pages. The document shall be of sufficient legibility so as to produce a clear and legible reproduction thereof. If a document is judged not to be of sufficient legibility so as to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy thereof which will be recorded contemporaneously with the document and shall be counted as additional pages. (8 point)

A special user fee in the amount of \$1 shall be charged and collected for each instrument, paper or notice recorded with the register of deeds. User fee moneys shall be transmitted to the county treasurer and placed in a separate fund to be used for the purpose of defraying the cost of converting the register of deeds document storage and retrieval system to micrographics, computer automation or for the preservation and upgrading of the records in the register of deeds office. User fund moneys may accumulate until sufficient moneys are available. (12 point)

1-13



Johnson County  
Kansas

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HOUSE LOCAL GOVERNMENT COMMITTEE

HEARING ON HOUSE BILL 2767

FEBRUARY 17, 1988

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. THE COMMISSIONERS FIND THEMSELVES IN A RATHER STRANGE SITUATION ON HOUSE BILL 2767, BECAUSE THEY BOTH SUPPORT AND OPPOSE THE BILL.

THE COMMISSIONERS ARE IN FULL AGREEMENT WITH THE REGISTERS OF DEEDS AND COMMEND THEIR EFFORTS TO ADDRESS THE LOW FILING FEES IN KANSAS. THESE FEES HAVE NOT BEEN ADJUSTED FOR SOMETIME AND ARE RUNNING WELL BELOW THE COST OF PROCESSING THE DOCUMENTS AND INSTRUMENTS IN TODAY'S ECONOMY. THE COMMISSION FURTHER SUPPORTS THE ADDITION OF THE USER FEE. THIS IS A CONCEPT THAT IS BEING USED SUCCESSFULLY IN MANY AREAS OF COUNTY SERVICES AND HAS BEEN VERY WELL ACCEPTED BY THE PUBLIC.

THE PORTION OF THE BILL THE COMMISSIONERS DO NOT AGREE WITH IS FOUND ON LINES 91 THROUGH 98. THIS WOULD CREATE A SPECIAL FUND THAT WOULD BE OUTSIDE OF THE COUNTY BUDGETARY PROCESS. THE BOARD STRONGLY OPPOSES ANY TYPE OF SEPARATE FUND BECAUSE IT DOES NOT LEND ITSELF TO THE OVERALL FINANCIAL MANAGEMENT OF THE ORGANIZATION. IN JOHNSON COUNTY THIS USER FEE IS PROJECTED TO BE APPROXIMATELY \$95,000 ANNUALLY. WE FEEL THIS AMOUNT OF REVENUE IS JUST TOO SIGNIFICANT TO NOT BE A PART OF THE COUNTY BUDGET.

DUE TO THEIR STATUTORY NATURE, COUNTIES MUST COPE WITH A GREAT DEAL OF FRAGMENTATION OF MANAGEMENT. HOWEVER, THE BOARD OF COUNTY COMMISSIONERS HAVE BEEN GIVEN THE BUDGETARY RESPONSIBILITY AND LEGISLATION SHOULD NOT BE ADOPTED THAT CREATES DIFFICULTIES IN FULFILLING THAT RESPONSIBILITY. OUR BOARD REQUESTS AN AMENDMENT TO THE BILL THAT WILL DIRECT THAT THE USER FEES WILL BE DEPOSITED IN THE COUNTY GENERAL FUND.

THANK YOU FOR YOUR TIME AND WE WOULD ASK THAT YOU CONSIDER OUR CONCERNS AND URGE THE ADOPTION OF THE REQUESTED AMENDMENT.

*Attachment 2*  
*2/17/88*





SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL COORDINATOR

WILLIE MARTIN

COUNTY COURTHOUSE • SUITE 315 • WICHITA, KANSAS 67203-3789 • TELEPHONE (316) 268-7552

TO: HOUSE LOCAL GOVERNMENT COMMITTEE

RE: HOUSE BILL 2767

FROM: WILLIE MARTIN, INTERGOVERNMENTAL COORDINATOR  
SEDGWICK COUNTY

Mr. Chairman, Members of the Committee, my name is Willie Martin and I represent the Sedgwick County Board of Commissioners. We support HB 2767 but would strongly object to the establishment of a special fund that would be outside of the counties budgetary process.

We support the efforts of the Registers of Deeds to address the low filing fees in Kansas. Current fees do not reflect the cost of processing documents and instruments in todays economy. We also support the addition of a user fee.

The creation of a special fund (lines 91 through 98) that would be outside of the county budgetary process does not aline itself with the responsibilities of county commissioners for budgetary oversight. The Sedgwick County Board of Commissioners strongly opposes any type of separate fund that does not lend itself to the overall financial management of the organization. We support the request of Johnson County for an amendment which would direct that user fees will be doposited in the County General Fund.

Our Registrar of Deeds has also suggested that implementation would be easier if the effective date was set at January 1, 1989 to coincide with our fiscal year.

*Attachment 3  
2/17/88*

## AMENDMENTS PROPOSED BY LEAGUE OF KANSAS MUNICIPALITIES

Session of 1988

**HOUSE BILL No. 2670**

By Representative Fuller, Baker, Borum, Bowden, Cribbs, Dean,  
Foster, Francisco, Gjerstad, Grotewiel, Helgerson, Kennard,  
Pottorff, Sawyer, Schauf, Spaniol, Webb and Williams

1-19

019 AN ACT concerning cities; relating to the redevelopment of  
0020 certain areas of cities; providing for the financing of such  
0021 redevelopment; amending K.S.A. 12-1776, 12-1777 and 12-  
0022 1779 and K.S.A. 1987 Supp. 12-1770, 12-1771, 12-1772, 12-  
0023 1773, 12-1774, 12-1775 and 12-1778 and repealing the existing  
0024 sections.

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 Section 1. K.S.A. 1987 Supp. 12-1770 is hereby amended to  
0027 read as follows: 12-1770. It is hereby declared to be the purpose  
0028 of this act to promote, stimulate and develop the general and  
0029 economic welfare of the state of Kansas and its communities and  
0030 to assist in the development and redevelopment of central busi-  
0031 ness district areas of cities, *blighted areas located within cities*  
0032 and enterprise zones located within cities, thus promoting the  
0033 general welfare of the citizens of this state, by authorizing cities  
0034 to acquire certain property and to issue special obligation bonds  
0035 and full faith and credit tax increment bonds for the financing of  
0036 redevelopment projects. It is further found and declared that the  
0037 powers conferred by this act are for public uses and purposes for  
0038 which public money may be expended and the power of eminent  
0039 domain exercised. The necessity in the public interest for the  
0040 provisions of this act is hereby declared as a matter of legislative  
0041 determination.

0042 Sec. 2. K.S.A. 1987 Supp. 12-1771 is hereby amended to read  
0043 as follows: 12-1771. (a) No city shall exercise any of the powers  
0044 conferred by K.S.A. 12-1770 *et seq.*, and amendments thereto,  
0045 unless the governing body of such city has adopted a resolution  
0046 finding that: (1) The specific project area sought to be redeve-

AMENDMENT

EXPLANATION

Attachment 4  
2/17/88

0047 loped is a blighted area; or (2) has been designated as an  
 0048 enterprise zone pursuant to K.S.A. 12-17,110, and amendments  
 0049 thereto; and (3) (2) the conservation, development or redevelop-  
 0050 ment of such area is necessary to promote the general and  
 0051 economic welfare of such city. For the purpose of this subsec-  
 0052 tion, the term "blighted area" means an area which: (1) Because  
 0053 of the presence of a majority of the following factors, substan-  
 0054 tially impairs or arrests the sound development and growth of the  
 0055 municipality or constitutes an economic or social liability or is a  
 0056 menace to the public health, safety, morals or welfare in its  
 0057 present condition and use: (A) A substantial number of de-  
 0058 teriorated or deteriorating structures; (B) predominance of de-  
 0059 fective or inadequate street layout; (C) unsanitary or unsafe  
 0060 conditions; (D) deterioration of site improvements; (E) diversity  
 0061 of ownership; (F) tax or special assessment delinquency ex-  
 0062 ceeding the fair value of the land; (G) defective or unusual  
 0063 conditions of title; (H) improper subdivision or obsolete platting  
 0064 or land uses; (I) the existence of conditions which endanger life  
 0065 or property by fire and other causes; or (J) conditions which  
 0066 create economic obsolescence; or (2) *previously was found by*  
 0067 *the governing body to be a slum or a blighted area under K.S.A.*  
 0068 ~~12-1742~~ *et seq., and amendments thereto.*

[ resolution of  
 [ 17-4742

A resolution is required by K.S.A. 17-4742.  
 To correct a citation.

0069 (b) The powers conferred upon cities under the provisions of  
 0070 K.S.A. 12-1770 *et seq.*, and amendments thereto, shall be exer-  
 0071 cised in central business district areas of cities, as determined by  
 0072 resolution adopted pursuant to K.S.A. 12-1772, and amendments  
 0073 thereto; or, in enterprise zones designated pursuant to K.S.A.  
 0074 12-17,110, and amendments thereto, or in blighted areas of  
 0075 cities.

[ as determined by resolution adopted  
 [ pursuant to K.S.A. 12-4742 et seq.,  
 [ and amendments thereto

To make consistent with language of lines 71:73.

0076 (c) *Within that portion of the city described in subsection*  
 0077 *(b), the governing body of a city may establish a district to be*  
 0078 *known as a "redevelopment district". One or more redevelop-*  
 0079 *ment projects may be undertaken by a city within a redevelop-*  
 0080 *ment district after such redevelopment district has been estab-*  
 0081 *lished in the manner provided by subsection (d).*

0082 (d) Any city proposing to establish a redevelopment district  
 0083 shall adopt a resolution stating that the city is considering the

42

0084 establishment of a redevelopment district. Such resolution shall:

0085 (1) Give notice that a public hearing will be held to consider  
0086 the establishment of a redevelopment district and fix the date,  
0087 hour and place of such public hearing;

0088 (2) describe the proposed boundaries of the redevelopment  
0089 district;

0090 (3) describe a proposed comprehensive plan that identifies  
0091 all of the proposed redevelopment project areas and that iden-  
0092 tifies in a general manner all of the buildings and facilities that  
0093 are proposed to be constructed or improved in each redevel-  
0094 opment project area;

0095 (4) state that a description and map of the proposed rede-  
0096 velopment district are available for inspection at a time and  
0097 place designated;

0098 (5) state that the governing body will consider findings nec-  
0099 essary for the establishment of a redevelopment district.

0100 Notice shall be given as provided in subsection (c) of K.S.A.  
0101 12-1772, and amendments thereto.

0102 (e) Upon the conclusion of the public hearing, the governing  
0103 body may adopt a resolution to make any findings required by  
0104 subsection (a) and may establish the redevelopment district by  
0105 ordinance. Such resolution shall contain a comprehensive plan  
0106 that identifies all of the proposed redevelopment project areas  
0107 and identifies in a general manner all of the buildings and  
0108 facilities that are proposed to be constructed or improved in  
0109 each redevelopment project area. The boundaries of such dis-  
0110 trict shall not include any area not designated in the notice  
0111 required by subsection (d). ~~Any substantial change or any addi-~~

0112 ~~tion to the redevelopment district or to the comprehensive plan~~  
0113 ~~shall be subject to the same procedure for public notice and~~  
0114 ~~hearing as is required for the establishment of the district.~~

0115 (e) (f) No privately owned property subject to ad valorem  
0116 taxes shall be acquired and redeveloped under the provisions of  
0117 K.S.A. 12-1770 et seq., and amendments thereto, if the board of  
0118 county commissioners or the board of education levying taxes on  
0119 such property determines by resolution adopted within 30 days  
0120 following the conclusion of the hearing provided for in K.S.A.

[ of area  
[ any substantial change

43



0121 ~~12-1772, and amendments thereto, for the establishment of the~~  
 0122 ~~redevelopment district required by subsection <sup>(e)</sup> that the pro-~~  
 0123 ~~posed project redevelopment district will have an adverse effect~~  
 0124 ~~on such county or school district.~~

[ (d)

To correct a citation.

0125 (d) (g) Any redevelopment plan undertaken in accordance  
 0126 with the provisions of K.S.A. 12-1770 et seq., and amendments  
 0127 thereto, shall fix a date on which the development shall: (1)  
 0128 Commence, which date shall be not more than one year from the  
 0129 date that any property is acquired by the city following adoption  
 0130 of the plan; and (2) be completed, which date shall be not more  
 0131 than five years from the date the plan was adopted. within the  
 0132 redevelopment district may be in separate development stages.  
 0133 Each plan shall be adopted according to the provisions of K.S.A.  
 0134 12-1772, and amendments thereto, and shall fix a date for  
 0135 completion. Any project shall be completed within 15 years  
 0136 from the date of the establishment of the redevelopment dis-  
 0137 trict.

0138 (e) (h) Any increment in ad valorem property taxes resulting  
 0139 from a redevelopment project district undertaken in accordance  
 0140 with the provisions of this act, shall be apportioned to a special  
 0141 fund for the payment of the cost of the redevelopment project,  
 0142 including the payment of principal and interest on any special  
 0143 obligation bonds or full faith and credit tax increment bonds  
 0144 issued to finance such project pursuant to K.S.A. 12-1775, and  
 0145 amendments thereto, may be pledged to such fund for this act  
 0146 and may be pledged to the payment of principal and interest on  
 0147 such bonds. The maximum maturity on bonds issued to finance  
 0148 projects pursuant to this act shall not to exceed 20 years. For the  
 0149 purposes of this act, "increment" means that amount of ad  
 0150 valorem taxes collected from real property located within the  
 0151 redevelopment project area which is attributable to its increase  
 0152 in assessed valuation resulting from a redevelopment project and  
 0153 which district that is in excess of that the amount which is  
 0154 produced from such property and attributable to the assessed  
 0155 valuation of such property prior to any increase in assessed  
 0156 valuation resulting from a redevelopment project and as of the  
 0157 date the redevelopment plan was adopted, as provided in sub-

444

0158 section (e)(2) of K.S.A. 12-1775, and amendments thereto the  
0159 date the redevelopment district was established.

0160 (H) (i) Before any redevelopment project is undertaken, a  
0161 comprehensive feasibility study, which shows the benefits  
0162 derived from such project will exceed the costs and that the  
0163 income therefrom will be sufficient to pay for the project shall be  
0164 prepared.

0165 Sec. 3. K.S.A. 1987 Supp. 12-1772 is hereby amended to read  
0166 as follows: 12-1772. (a) Any city proposing to undertake a rede-  
0167 velopment project in accordance with the provisions of this act  
0168 within a redevelopment district established pursuant to K.S.A.  
0169 12-1771, and amendments thereto, shall first prepare a redevel-  
0170 opment plan in consultation with the planning commission of the  
0171 city. The redevelopment plan shall include: (1) A summary of the  
0172 feasibility study required by K.S.A. 12-1771, and amendments  
0173 thereto; (2) a reference to the redevelopment district plan es-  
0174 tablished under K.S.A. 12-1771, and amendments thereto, that  
0175 identifies the redevelopment project area that is set forth in the  
0176 comprehensive plan that is being considered; (3) a description  
0177 and map of the area to be redeveloped; (3) (4) ~~a detailed de-~~  
0178 ~~scription of the buildings and facilities proposed to be con-~~  
0179 ~~structed or improved in such area;~~ (5) the relocation assistance

0180 plan required by K.S.A. 12-1777, and amendments thereto; (4) (6)  
0181 a/description of the buildings and facilities proposed to be  
0182 constructed or improved in such area; and (5) (7) any other  
0183 information the governing body deems necessary to advise the  
0184 public of the intent of the plan. A copy of the redevelopment  
0185 plan shall be delivered to the board of county commissioners of  
0186 the county and the board of education of any school district  
0187 levying taxes on property within the proposed redevelopment  
0188 project area. Upon a finding by the planning commission that the  
0189 redevelopment plan is consistent with the comprehensive gen-  
0190 eral plan for the development of the city, the governing body of  
0191 the city shall adopt a resolution stating that the city is consider-  
0192 ing the adoption of the plan. Such resolution shall:

0193 (1) Give notice that a public hearing will be held to consider  
0194 the adoption of the redevelopment plan and fix the date, hour

[ , as determined under the provisions  
of K.S.A. 12-1775, as amended.

To clarify; see lines 420:472.

[ Such feasibility study shall be an  
open public record.

To clarify; probably required by Open Meetings Act.  
See lines 171:172.

[ (5)  
[ detailed  
[ (6)

To remove duplication of lines 177:179 with lines 180:182;  
requiring the description to be detailed.

415

0195 and place of such public hearing;

0196 (2) describe the boundaries of the ~~central business district of~~  
0197 ~~the city or the boundaries of the enterprise zone to be estab-~~  
0198 ~~lished redevelopment district within which the redevelopment~~  
0199 ~~project will be located and the date of establishment of such~~  
0200 ~~district;~~

0201 (3) describe the boundaries of the area proposed to be in-  
0202 cluded within the redevelopment project area; and

0203 (4) state that the redevelopment plan, including a summary  
0204 of the feasibility study, relocation assistance plan and financial  
0205 guarantees of the prospective developer and a description and  
0206 map of the area to be redeveloped are available for inspection  
0207 during regular office hours in the office of the city clerk.

0208 Except as provided in paragraph (3) of subsection (b) of K.S.A.  
0209 ~~1984 Supp.~~ 12-1774, and amendments thereto, if the governing  
0210 body determines that it may issue full faith and credit tax in-  
0211 crement bonds to finance the redevelopment project, in whole or  
0212 in part, the resolution also shall include notice thereof.

0213 (b) The date fixed for the public hearing shall be not less than  
0214 30 or more than 70 days following the date of the adoption of the  
0215 resolution fixing the date of the hearing.

0216 (c) A copy of the resolution providing for the public hearing  
0217 shall be delivered to the board of county commissioners of the  
0218 county and the board of education of any school district levying  
0219 taxes on property within the proposed redevelopment project  
0220 area. Copies also shall be mailed by certified mail to each owner  
0221 and occupant of land within the proposed redevelopment project  
0222 area not more than 10 days following the date of the adoption of  
0223 the resolution. The resolution shall be published once in the  
0224 official city newspaper not less than one week or more than two  
0225 weeks preceding the date fixed for the public hearing. A sketch  
0226 clearly delineating the area in sufficient detail to advise the  
0227 reader of the particular land proposed to be included within the  
0228 project area shall be published with the resolution.

0229 (d) At the public hearing, a representative of the city shall  
0230 present the city's proposed redevelopment plan. Following the  
0231 presentation of the plan, all interested persons shall be given an

0232 opportunity to be heard. The governing body for good cause  
0233 shown may recess such hearing to a time and date certain, which  
0234 shall be fixed in the presence of persons in attendance at the  
0235 hearing.

0236 (e) Following the public hearing, the governing body may  
0237 adopt the redevelopment plan by ordinance passed upon a  $\frac{2}{3}$   
0238 vote. Any substantial changes to the plan as adopted shall be  
0239 subject to public hearing following publication of notice thereof  
0240 at least twice in the official city newspaper.

0241 Sec. 4. K.S.A. 1987 Supp. 12-1773 is hereby amended to read  
0242 as follows: 12-1773. (a) Any city which has adopted a redevelop-  
0243 ment plan in accordance with the provisions of this act may  
0244 purchase or otherwise acquire real property. Upon a  $\frac{2}{3}$  vote of  
0245 the members of the governing body thereof a city may acquire by  
0246 condemnation any interest in real property, including a fee  
0247 simple title thereto, which it deems necessary for or in connec-  
0248 tion with any redevelopment plan of an area located within the  
0249 ~~central business redevelopment~~ district. Any such city may ex-  
0250 ercise the power of eminent domain in the manner provided by  
0251 K.S.A. 26-501 et seq., and amendments thereto. In addition to  
0252 any compensation or damages allowed under the eminent do-  
0253 main procedure act, such city shall also provide for the payment  
0254 of relocation assistance as provided in K.S.A. 12-1777, and  
0255 amendments thereto.

0256 (b) Any property acquired by a city under the provisions of  
0257 this act may be sold or leased to any person, firm or corporation,  
0258 hereinafter referred to as a developer, in accordance with the  
0259 redevelopment plan and under such other conditions as may be  
0260 agreed upon. Such city ~~shall~~ *may* use the proceeds of special  
0261 obligation bonds issued under K.S.A. 12-1774, and amendments  
0262 thereto, or full faith and credit tax increment bonds issued under  
0263 K.S.A. ~~1984 Supp.~~ 12-1774 ~~to acquire real property within the~~  
0264 ~~project area including the payment of relocation assistance, to~~  
0265 ~~prepare the site for redevelopment, to finance any necessary~~  
0266 ~~related streets and municipal utilities, and to pay all necessary~~  
0267 ~~related expenses to redevelop and finance the redevelopment~~  
0268 ~~project, and amendments thereto, or any uncommitted funds~~

1/16

0269 derived from those sources set forth in paragraph (1) of subsec-  
 0270 tion (a) of K.S.A. 12-1774, and amendments thereto, to imple-  
 0271 ment the redevelopment plan including, without limitation:

0272 (1) Acquisition of property within the project area;

0273 (2) payment of relocation assistance;

0274 (3) site preparation;

0275 (4) sanitary and storm sewers and lift stations;

0276 (5) drainage conduits, channels and levees;

0277 (6) street grading, paving, graveling, macadamizing, curb-  
 0278 ing, guttering and surfacing;

0279 (7) street lighting fixtures, connection and facilities;

0280 (8) underground gas, water, heating, ~~sewer~~ and electrical services and  
 0281 connections located ~~in streets for private property;~~ within the public right-of-way;

0282 (9) sidewalks and pedestrian underpasses or overpasses;

0283 (10) drives and driveway approaches located within public  
 0284 right-of-way;

0285 (11) water mains and extensions;

0286 (12) plazas and arcades;

0287 (13) parking facilities;

0288 (14) landscaping and plantings; ~~foundations,~~ fountains, shelters,  
 0289 benches, sculptures, signs, lighting, decorations and similar

0290 amenities; and

0291 (15) all related expenses to redevelop and finance the rede-  
 0292 velopment project.

0293 None of the proceeds from the sale of such bonds shall be used  
 0294 for the construction of buildings or other ~~improvements struc-~~  
 0295 tures to be owned by such developer.

0296 Sec. 5. K.S.A. 1987 Supp. 12-1774 is hereby amended to read  
 0297 as follows: 12-1774. (a) (1) Any city shall have the power to issue  
 0298 special obligation bonds to finance the undertaking of any rede-  
 0299 velopment project in accordance with the provisions of this act.

0300 Such special obligation bonds shall be made payable, both as to  
 0301 principal and interest: (A) From property tax increments allo-  
 0302 cated to, and paid into a special fund of the city under the  
 0303 provisions of K.S.A. 12-1775, and amendments thereto;

0304 (B) from revenues of the city derived from or held in con-  
 0305 nection with the undertaking and carrying out of any redevelop-

See line 275 as to sewers.  
 What does "in streets for private property" mean?

To correct an error.

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0306 ment project or projects under this act;

0307 (C) from revenues not previously committed by the city  
0308 which are derived from the collection of a local option sales tax  
0309 instituted pursuant to K.S.A. 12-187 et seq., and amendments  
0310 thereto, after first complying with the requirements of K.S.A.  
0311 12-195, and amendments thereto;

0312 ~~(G)~~ (D) from any private sources, contributions or other fi-  
0313 nancial assistance from the state or federal government; or

0314 ~~(D)~~ (E) by any combination of these methods.

0315 The city may pledge such revenue to the repayment of such  
0316 special obligation bonds prior to, simultaneously with, or sub-  
0317 sequent to the issuance of such special obligation bonds.

0318 (2) Bonds issued under paragraph (1) of subsection (a) shall  
0319 not be general obligations of the city, nor in any event shall they  
0320 give rise to a charge against its general credit or taxing powers, or  
0321 be payable out of any funds or properties other than any of those  
0322 set forth in paragraph (1) of subsection (a) and such bonds shall  
0323 so state on their face.

0324 (3) Bonds issued under the provisions of paragraph (1) of  
0325 subsection (a) shall be special obligations of the city and are  
0326 declared to be negotiable instruments. They shall be executed  
0327 by the mayor and clerk of the city and sealed with the corporate  
0328 seal of the city. All details pertaining to the issuance of such  
0329 special obligation bonds and terms and conditions thereof shall  
0330 be determined by ordinance of the city. All special obligation  
0331 bonds issued pursuant to this act and all income or interest  
0332 therefrom shall be exempt from all state taxes except inheritance  
0333 taxes. Such special obligation bonds shall contain none of the  
0334 recitals set forth in K.S.A. 10-112, and amendments thereto. Such  
0335 special obligation bonds shall, however, contain the following  
0336 recitals, viz., the authority under which such special obligation  
0337 bonds are issued, they are in conformity with the provisions,  
0338 restrictions and limitations thereof, and that such special obliga-  
0339 tion bonds and the interest thereon are to be paid from the  
0340 money and revenue received as provided in paragraph (1) of  
0341 subsection (a).

0342 (b) (1) Subject to the provisions of paragraph (2) of this sub-

0343 section, any city shall have the power to issue full faith and credit  
0344 tax increment bonds to finance the undertaking of any redevelop-  
0345 opment project in accordance with the provisions of K.S.A.  
0346 12-1770 et seq., and amendments thereto. Such full faith and  
0347 credit tax increment bonds shall be made payable, both as to  
0348 principal and interest: (A) From the revenue sources identified  
0349 in paragraph (1) of subsection (a); and (B) subject to the provi-  
0350 sions of paragraph (2) of this subsection, from a pledge of the  
0351 city's full faith and credit to use its ad valorem taxing authority  
0352 for repayment thereof in the event all other authorized sources of  
0353 revenue are not sufficient.

0354 (2) Except as provided in paragraph (3) of this subsection,  
0355 before the governing body of any city proposes to issue full faith  
0356 and credit tax increment bonds as authorized by this subsection,  
0357 the feasibility study required by K.S.A. 12-1771, and amend-  
0358 ments thereto, shall demonstrate that the benefits derived from  
0359 the project will exceed the cost and that the income therefrom  
0360 will be sufficient to pay the costs of the project. No full faith and  
0361 credit tax increment bonds shall be issued unless the governing  
0362 body states in the resolution required by K.S.A. 12-1772, and  
0363 amendments thereto, that it may issue such bonds to finance the  
0364 proposed redevelopment project. The governing body may issue  
0365 the bonds unless within 60 days following the date of the public  
0366 hearing on the proposed redevelopment plan a protest petition  
0367 signed by 3% of the qualified voters of the city is filed with the  
0368 city clerk in accordance with the provisions of K.S.A. 25-3601 et  
0369 seq., and amendments thereto. If a sufficient petition is filed, no  
0370 full faith and credit tax increment bonds shall be issued until the  
0371 issuance of the bonds is approved by a majority of the voters  
0372 voting at an election thereon. Such election shall be called and  
0373 held in the manner provided by the general bond law. The  
0374 failure of the voters to approve the issuance of full faith and  
0375 credit tax increment bonds shall not prevent the city from issuing  
0376 special obligation bonds in accordance with K.S.A. 12-1774, and  
0377 amendments thereto. No such election shall be held in the event  
0378 the board of county commissioners or the board of education  
0379 determines, as provided in K.S.A. 12-1771, and amendments

4-8

[ redevelopment district

To make consistent with the provisions of lines 115:124.

0380 thereto, that the proposed ~~project~~ will have an adverse effect on  
0381 the county or school district.

0382 (3) As an alternative to paragraph (2) of this subsection, any  
0383 city which adopts a redevelopment plan but does not state its  
0384 intent to issue full faith and credit tax increment bonds in the  
0385 resolution required by K.S.A. 12-1772, and amendments thereto,  
0386 and has not acquired property in the redevelopment project area  
0387 may issue full faith and credit tax increment bonds if the gov-  
0388 erning body of the city adopts a resolution stating its intent to  
0389 issue the bonds and the issuance of the bonds is approved by a  
0390 majority of the voters voting at an election thereon. Such election  
0391 shall be called and held in the manner provided by the general  
0392 bond law. The failure of the voters to approve the issuance of full  
0393 faith and credit tax increment bonds shall not prevent the city  
0394 from issuing special obligation bonds pursuant to paragraph (1)  
0395 of subsection (a). Any redevelopment plan adopted by a city  
0396 prior to the effective date of this act in accordance with K.S.A.  
0397 12-1772, and amendments thereto, shall not be invalidated by  
0398 any requirements of this act.

0399 (4) During the progress of any redevelopment project in  
0400 which the city's costs will be financed, in whole or in part, with  
0401 the proceeds of full faith and credit tax increment bonds, the city  
0402 may issue temporary notes in the manner provided in K.S.A.  
0403 10-123, and amendments thereto, to pay the city's cost for the  
0404 project. Such temporary notes shall not be issued and the city  
0405 shall not acquire property in the redevelopment project area  
0406 until the requirements of paragraph (2) or (3) of this subsection,  
0407 whichever is applicable, have been met.

0408 (5) Full faith and credit tax increment bonds issued under  
0409 this subsection shall be general obligations of the city and are  
0410 declared to be negotiable instruments. They shall be issued in  
0411 accordance with the general bond law. All such bonds and all  
0412 income or interest therefrom shall be exempt from all state taxes  
0413 except inheritance taxes. The amount of the full faith and credit  
0414 tax increment bonds issued and outstanding which exceeds 3%  
0415 of the assessed valuation of the city shall be within the bonded  
0416 debt limit applicable to such city.

4-9



0417 (6) Any city issuing special obligation bonds under the pro-  
0418 visions of this act may refund all or part of such issue pursuant  
0419 to the provisions of K.S.A. 10-116a, and amendments thereto.

0420 Sec. 6. K.S.A. 1987 Supp. 12-1775 is hereby amended to read  
0421 as follows: 12-1775. (a) For the purposes of this act, the term  
0422 "taxing subdivision" shall include only the county, the city and  
0423 the unified school district, the territory or jurisdiction of which  
0424 includes the redevelopment ~~project area~~ district. The term "real  
0425 property taxes" includes all taxes levied on an ad valorem basis  
0426 upon land and improvements thereon.

0427 (b) All tangible taxable property located within a redevelop-  
0428 ment ~~project area~~ district shall be assessed and taxed for ad  
0429 valorem tax purposes pursuant to law in the same manner that  
0430 such property would be assessed and taxed if located outside  
0431 such ~~area~~ district, and all ad valorem taxes levied on such  
0432 property shall be paid to and collected by the county treasurer in  
0433 the same manner as other taxes are paid and collected. Except as  
0434 otherwise provided in this section, the county treasurer shall  
0435 distribute such taxes as may be collected in the same manner as  
0436 if such property were located outside a redevelopment ~~area~~  
0437 district. Each redevelopment ~~area~~ district established under the  
0438 provisions of this act shall constitute a separate taxing unit for the  
0439 purpose of the computation and levy of taxes.

0440 (c) Beginning with the first payment of taxes which are  
0441 levied following the date of approval of any redevelopment ~~plan~~  
0442 ~~by ordinance pursuant to K.S.A. 12-1772~~ district established  
0443 pursuant to K.S.A. 12-1771, and amendments thereto, real prop-  
0444 erty taxes received by the county treasurer resulting from taxes  
0445 which are levied subject to the provisions of this act by and for  
0446 the benefit of a taxing subdivision, as herein defined, on prop-  
0447 erty located within such redevelopment ~~area~~ district constitut-  
0448 ing a separate taxing unit under the provisions of this section,  
0449 shall be divided as follows:

0450 (1) From the taxes levied each year subject to the provisions  
0451 of this act by or for each of the taxing subdivisions upon property  
0452 located within a redevelopment ~~area~~ district constituting a sep-  
0453 arate taxing unit under the provisions of this act, the county

44-10

0454 treasurer first shall allocate and pay to each such taxing subdivi-  
 0455 sion all of the real property taxes collected which are produced  
 0456 from that portion of the current assessed valuation of such real  
 0457 property located within such separate taxing unit which is equal  
 0458 to the total assessed value of such real property on the ~~effective~~  
 0459 date of ~~such ordinance~~ *the establishment of the redevelopment*  
 0460 *district.*

0461 (2) Any real property taxes produced from that portion of the  
 0462 current assessed valuation of real property within the redevel-  
 0463 opment ~~project area~~ *district* constituting a separate taxing unit  
 0464 under the provisions of this section in excess of an amount equal  
 0465 to the total assessed value of such real property on the effective  
 0466 date of ~~such ordinance~~ *the establishment of the district* shall be  
 0467 allocated and paid by the county treasurer to the treasurer of the  
 0468 city and deposited in a special fund of the city to pay the *cost of*  
 0469 *redevelopment projects including the payment of* principal of  
 0470 and interest on any special obligation bonds or full faith and  
 0471 credit tax increment bonds issued by such city to finance, in  
 0472 whole or in part, such redevelopment ~~project district~~. When  
 0473 such obligation bonds and interest thereon have been paid, all  
 0474 moneys thereafter received from real property taxes within such  
 0475 redevelopment ~~project area~~ shall be allocated and paid to the  
 0476 respective taxing subdivisions in the same manner as are other  
 0477 ad valorem taxes. *If such obligation bonds and interest thereon*  
 0478 *have been paid before the completion of a project, the city may*  
 0479 *continue to use such moneys for any purpose authorized by this*  
 0480 *act until such time as the project is completed.*

0481 (d) In any redevelopment plan or in the proceedings for the  
 0482 issuing of any special obligation bonds or full faith and credit tax  
 0483 increment bonds by the city to finance a redevelopment project,  
 0484 the property tax increment portion of taxes provided for in  
 0485 paragraph (2) of subsection ~~(e)~~ ~~(h)~~ may be irrevocably pledged for  
 0486 the payment of the principal of and interest on such obligation  
 0487 bonds, subject to the provisions of subsection ~~(e)~~ of K.S.A.  
 0488 12-1771, and amendments thereto.

0489 Sec. 7. K.S.A. 12-1776 is hereby amended to read as follows:  
 0490 12-1776. (a) After the adoption by the city governing body of a

[ project

Bonds are used to finance a project, not a district.

[ district

To correct an error.

[ , but for not to exceed 15 years from the date of the establishment of the redevelopment district.

To clarify that the maximum period is 15 years, as limited by lines 135:137.

[ (c)

To correct citations.

[ (h)

4/11

0491 redevelopment plan which contains the provisions authorized by  
 0492 K.S.A. 12-1775, and amendments thereto, the clerk of the city  
 0493 shall transmit a copy of the description of the land within the  
 0494 ~~project area redevelopment district~~, a copy of the ordinance  
 0495 adopting the plan and a map or plat indicating the boundaries of  
 0496 the ~~project area district~~ to the clerk, assessor and treasurer of the  
 0497 county in which the ~~project district~~ is located and to the gov-  
 0498 erning bodies of the county and school district which levy taxes  
 0499 upon any property in the ~~project area district~~. Such documents  
 0500 shall be transmitted as promptly as practicable following the  
 0501 adoption or modification of the plan, but in any event, on or  
 0502 before the January 1st next following the adoption or modifica-  
 0503 tion of the plan.

0504 (b) For any year in which taxes are to be paid to the special  
 0505 fund established under subsection (c)(2) of K.S.A. 12-1775, and  
 0506 amendments thereto, any increase in assessed valuation of tax-  
 0507 able tangible real property within the redevelopment ~~project~~  
 0508 ~~district~~ in excess of an amount equal to the total assessed value  
 0509 of such real property on the effective date of the ordinance  
 0510 ~~adopting the redevelopment plan, as provided in subsection~~  
 0511 ~~(c)(1) of K.S.A. 12-1775, and amendments thereto, establishment~~  
 0512 ~~of the redevelopment district shall not be considered by any~~  
 0513 ~~taxing subdivision in computing any debt limitation or for any~~  
 0514 ~~other purpose except for the levy of taxes and in determining the~~  
 0515 ~~amount to be paid to such special fund.~~

0516 (c) The ~~assessor~~/of any county in which a redevelopment appraiser  
 0517 ~~project district~~ is authorized by a city shall certify the amount of  
 0518 such increase in assessed valuation of real and personal property  
 0519 within the redevelopment ~~project area district~~ to the county  
 0520 clerk on or before July 1 of each year.

0521 Sec. 8. K.S.A. 12-1777 is hereby amended to read as follows:  
 0522 12-1777. Before any redevelopment project shall be initiated  
 0523 under this act a relocation assistance plan shall be approved by  
 0524 the governing body proposing to undertake the project. Such  
 0525 relocation assistance plan shall:

0526 (a) Provide for relocation payments to be made to persons,  
 0527 families and businesses who move from real property or who

4-12

0528 move personal property from real property as a result of the  
0529 acquisition of the real property by the city in carrying out the  
0530 provisions of this act;

0531 (b) provide that no persons or families residing in the ~~project~~  
0532 ~~area~~ *redevelopment district* shall be displaced unless and until  
0533 there is a suitable housing unit available and ready for occu-  
0534 pancy by such displaced person or family at rents within their  
0535 ability to pay. Such housing units shall be suitable to the needs  
0536 of such displaced persons or families and must be a decent, safe,  
0537 sanitary and otherwise standard dwelling; and

0538 (c) provide for the payment of any damages sustained by a  
0539 retailer, as defined by K.S.A. 79-3702, *and amendments thereto*,  
0540 by reason of the liquidation of inventories necessitated by relo-  
0541 cation.

0542 Sec. 9. K.S.A. 1987 Supp. 12-1778 is hereby amended to read  
0543 as follows: 12-1778. Notwithstanding any other provision of law,  
0544 it is hereby stated that it is an object of all ad valorem taxes levied  
0545 by or for the benefit of any city, county or school district of the  
0546 state on taxable tangible real property located within any rede-  
0547 velopment ~~project undertaken~~ *district created* pursuant to this  
0548 act, that such taxes may be applied and allocated to and when  
0549 collected paid into a special fund of a city pursuant to the  
0550 procedures and limitations of this act to pay the *cost of a project*  
0551 *including* principal of and interest on special obligation bonds or  
0552 full faith and credit tax increment bonds issued by such city to  
0553 finance, in whole or in part, such redevelopment project.

0554 Sec. 10. K.S.A. 12-1779 is hereby amended to read as fol-  
0555 lows: 12-1779. Industrial revenue bonds may be issued under  
0556 the authority of K.S.A. 12-1740 *et seq.*, *and amendments thereto*,  
0557 for the purchase, construction, reconstruction, equipping, main-  
0558 tenance and repair of buildings and facilities within/redevelop-  
0559 ment ~~project areas~~ *district* established under the provisions of  
0560 this act.

0561 Sec. 11. K.S.A. 12-1776, 12-1777 and 12-1779 and K.S.A.  
0562 1987 Supp. 12-1770, 12-1771, 12-1772, 12-1773, 12-1774, 12-1775  
0563 and 12-1778 are hereby repealed.

0564 Sec. 12. This act shall take effect and be in force from and  
0565 after its publication in the statute book.

[ a  
[ (strike "project")

See lines 76:81.

[ Effective date *Jan 1, 1989*

413