Approved January 31, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Michael R. O'Neal at
Chairperson

3:30 ~~xxxx~~./p.m. on January 24, 1990 in room ~~313-S~~ of the Capitol.

All members were present except:

Representatives Fuller, Gomez and Peterson, who were excused

Committee staff present:

Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Matt Lynch, Research Associate, Judicial Council
Ron Smith, Kansas Bar Association
Linda Fincham, Register of Deeds Association, Marysville
William L. Mitchell, Kansas Land Title Association, Hutchinson
Susie Parmer, Leavenworth County Register of Deeds, Leavenworth
Paul Shelby, Office of Judicial Administrator

HEARING ON HB 2643 Rules of Pleading, damages in excess of $50,000

Matt Lynch, Research Assistant, Judicial Council, testified HB 2643 amends KSA 60-208 and KSA 1989 Supp. 60-254 by raising the claim for relief from $10,000 to $50,000. This would conform with the increase the federal government made last year.

Ron Smith, Kansas Bar Association testified in support of HB 2643. He stated HB 2643 makes the state's ad damnum clause identical to the federal jurisdictional amount, see Attachment I.

There being no other conferees the hearing on HB 2643 was closed.

HEARING ON HB 2644 Recording of certain decrees of the court with the Register of Deeds

Matt Lynch, Research Associate, Judicial Council, explained the Judicial Council requested the introduction of HB 2644. This bill would repeal 1989 SB 264. 1989 SB 264 amended KSA 58-2242a and KSA 59-2249. Some of the reasons he stated for repealing SB 264 are the certificate of title form creates more work for the attorney and more expense for the client. It creates more work for the judge, clerk of the court and for the register of deeds. The bill was supposed to provide "one stop shopping" for titles. The bill failed in that purpose. The records of the clerk of the district court and county treasurer must still be checked. The certificate of tile also represents an administrative act, not a judicial act, therefore, if someone's title is clouded by an incorrect title, the signing judge may well be personally liable for damages and without the shield of immunity.

Matt Lynch provided the Committee with copies of letters from Barry A. Bennington, District Judge, Division 1, Twentieth Judicial District and Lee Hornbaker of the law firm of Harper, Hornbaker and Altenhofen, Chartered, see Attachment II.

Paul Shelby, Office of Judicial Administrator, submitted copies of a resolution by the Kansas District Judges Association favoring enactment of HB 2644 and letters from Judge Bennington and Douglas A. Pringle, Attorney at Law, Wichita; and copies of the new standard on Certificates of Title, passed by the Committee on Title Standards of the Kansas Bar Association, see Attachment III.

Linda Fincham, Legislative Chairman, Register of Deeds Association testified in opposition to HB 2644. She said the concept of the Certificate of Title is good. She stated the Certificate of Title serves as a simple notice to the public and helps close the gap in the chain of title. The Certificates of Title have been a tool in court cases filed in other counties. The Certificate of Title is mailed to the county where the property is located, helping the appraisers, as well as serving notice in the Register of Deeds records.

Ms. Fincham suggested some amendments such as changing "certificate of title" to "notice" and changing "certify" to "serve notice", see Attachment IV.

Susie Parmer, Leavenworth County Register of Deeds, submitted a letter from Michael J. Waits, Attorney at Law, Leavenworth, in support of the Certificate of Title, see Attachment V.

William L. Mitchell, Kansas Land Title Association, informed the Committee the Kansas Land Title Association does not consider the document a Certificate of Title. They consider it a form of notice. They still do their own research, such as checking with the district court, the county clerk's office and the register of deeds office. He suggested the form should be titled "Notice of Title Change" and that the work be done by the attorney instead of the judge.

There being no other conferees, the hearing on HB 2644 was closed.

The Chairman announced he was calling a Committee meeting for tomorrow. He and Jerry Donaldson will report on the Child Support Guidelines that were presented to the Supreme Court Wednesday, January 24, 1990.

The Committee meeting was adjourned at 4:30 p.m.

GUEST LIST

COMMITTEE: SPECIAL COMMITTEE ON JUDICIARY DATE: Jan 24, 1990

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
William L. Mitchell	Hutchinson, Ks	Kansas Land Title Assoc.
Susie Parmenter	Lenexa	Reg. of Deeds
Linda Fincham	Frankfort, KS	Register of Deeds Assn
Tom Groneman	K.C.K.	" " "
R Jones	Topeka	KTLA
Chip Wheelen	Topeka	Ks Medical Soc.
Ron Smith	Topeka	KBA
Matt Lynch	"	Jud Council

KANSAS BAR ASSOCIATION

HB 2643
January 24, 1990

Ad Damnum Clause

Mr. Chairman, members of the House Judiciary committee. I am Ron Smith. I represent the Kansas Bar Association.

The 1976 Kansas legislature enacted an ad damnum clause as part of its response to the first medical malpractice crisis. It basically states that if the claim for damages exceeds $10,000 then the plaintiff's first prayer for relief cannot state a specific amount being sought but must plead the amount generally: e.g. "in an amount exceeding $10,000.00."

Although $10,000 seems like an arbitrary number, it happened to correspond to the federal diversity jurisdiction amount, although it was not planned that way.1/

Effective last May, the Congress increased the removal amount to $50,000. The question then becomes whether to change the Kansas ad damnum clause to $50,000 to correspond with the federal change.

One reason for doing so would be to avoid an unnecessary interrogatory. A defendant being sued "for an amount exceeding $10,000" doesn't know whether the amount is over or under $50,000 unless after answering the petition, the defendant asks for an interrogatory stating the amount in controversy.2/ Only upon answer of this interrogatory does defendant know whether to consider removing the case to federal court.

---

[1]Prior to May, 1988, even if litigants were residents of two different states, which ordinarily invokes federal court jurisdiction, unless the amount in controversy was at least $10,000, the plaintiff must file the action in an appropriate state court.

[2]Called a Rule 118 statement.

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Attachment I

1200 Harrison • P.O. Box 1037 • Topeka, Kansas 66601-1037 • FAX (913) 234-3813 • Telephone (913) 234-5696

However, this creates a Catch 22 for the defendant. If defendant cannot request and get a rule 118 statement answered before the running of the time for filing an answer in state court, then federal rules of civil procedure do not allow removal from state court to the federal court regardless of the amount in controversey. Thus the ad damnun clause penalizes defendants unless it is identical with the federal jurisdiction amount.3/

HB 2643 makes the state's ad damnum clause identical to the federal jurisdictional amount. KBA supports HB 2643.

---

[3]Among KBA members there is support for repealing the state's ad damnum clause altogether, since a case filed in federal court to begin with does not have to include a similar statement. However, our Board of Governors adopted this policy of making the ad damnum clause equal to the federal jurisdictional amount.

STATE OF KANSAS
TWENTIETH JUDICIAL DISTRICT

BARRY A. BENNINGTON
DISTRICT JUDGE DIVISION NO. 1
STAFFORD COUNTY COURTHOUSE
ST. JOHN, KANSAS 67576
316-549-3296

October 9, 1989

Honorable Justice Richard W. Holmes
Supreme Court
Kansas Judicial Center
301 W. 10th
Topeka, Kansas 66612-1599

Dear Justice Holmes:

I am writing (at the suggestion of Judge Clement) to enlist your support in the jihad I am launching against the recent amendments to K.S.A. 58-2242a and K.S.A. 59-2249. Perhaps you know the legislative history of S.B. 268 better than I, but I am told the bill was introduced at the request of the register of deeds association. The only opposition to the original bill was from the clerks of the district court who sought an amendment to the bill which changed the signatory from clerk to judge.

Rather than submit a lengthy narrative about this ill-conceived and ill-designed piece of legistation I offer instead my laundry list of defects and complaints.

1. The forms mandated by the bill require the caption to use the titles "petitioner" and "respondent" which are often inappropriate.

2. The form requires the judge to "certify" that so-and-so has "acquired title" to a particular piece of property. This may well be a misleading statement as so-and-so may only have acquired an interest in the property.

3. In multi-party litigation the form does not provide for showing who the "grantor" of the title is--instead it implies it is the opposing party or the judge.

4. The form designates its title to be CERTIFICATE OF TITLE. I have always believed that a certificate of title was an instrument prepared by an abstractor certifying the

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Attachment II

record owner of a piece of property. Certificate of title as used here is a misnomer.

5. The certificate is most like a transcript of judgment but it does not deserve even that title.

6. I am told the purpose of the bill is to provide "one-stop shopping" for titles. The bill fails in that purpose. The records of the clerk of the district court and county treasurer must still be checked.

7. Every attorney with whom I have discussed the certificates has indicated that he or she does not believe the certificate provides any basis for determining title. Every attorney has said they will use the original journal entry filed in the court files, not the certificate.

8. The certificate is not to be filed until the judgment is final. I find many attorneys are forgetting to file the document after the appeal period or filing before the appeal period is up.

9. The certificate means more work for the attorney and more expense for the client. If the certificate is unreliable how can this expense be justified? Isn't this contrary to the current movement to reduce litigation expense?

10. The certificate means more work for the judge, clerk of the court and register of deeds. If the certificate is unreliable how can this extra work (and expense to the taxpayer) be justified?

11. The certificate will be abstracted by an abstractor meaning more unnecessary expense for the property owners.

12. I have found typographical errors in these certificates to be common. As I sit in a multicounty district and the certificates are mailed to me for signature, I do not have the opportunity to check them against the journal entry for errors. Consequently, I believe many erroneous certificates will be filed.

13. Finally, and most importantly from my personal perspective, the certificate represents an administrative act, not a judicial act. Therefore, if someone's title is clouded by an incorrect certificate, the signing judge may well be personally liable for damages and without the shield of immunity.

For these reasons, I urge the Judicial Council to seek the repeal of S.B. 268, now Chapter 174 of the 1989 Session Laws of Kansas.

Respectfully submitted,

Barry A. Bennington
District Judge, Division I
Twentieth Judicial District

BAB/sk
Enclosure
cc: Marvin Thompson
Judge William Clement

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H. Jud Com
Att II
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Harper, Hornbaker & Illenhofen, Chartered

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Howard W. Harper (1912-1988)
Lee Hornbaker
Steven Hornbaker
Charles W. Harper II
Craig J. Illenhofen
Steven L. Opat
Sharon A. Wright

June 26, 1989

The Honorable William D. Clement
Judge of the District Court
Geary County Courthouse
Junction City, KS 66441

Dear Judge Clement:

My attention has been piqued by the provisions of Senate Bill No. 268 relating to certifications of transfer of title in legal matters. I believe this law takes effect upon publication in the statute book and that will be July 1.

Judge Clement it really appears to me that this law might be worthwhile and necessary, but I am further of the opinion that there are some serious problems with the law and I wish to call them to your attention.

First, it comes as a rather distinct surprise to me to determine that apparently there is no place in our statute that directly provides that journal entries and decrees of settlement and distribution in probate matters should be filed and recorded with the Register of Deeds. I think the present law is an effort to fill a void, but it rather seems to me that it might cause more problems than it cures.

K.S.A. 58-2221 is a general law relating to the recording of instruments that convey title to real estate. I strongly suspicion that this law is broadly enough to require every journal entry in every divorce action or every probate proceedings or any other type of court proceedings that affects the title to real estate to be recorded in the office of the Register of Deeds. But whose duty? K.S.A. 58-2242a likewise states that any decree or judgment entered by a District Court shall be entered upon the transfer records in the Office of the County Clerk. Strange to say, there's nothing regarding a filing or recording in the Office of the Register of Deeds.

K.S.A. 59-2249 relates to final decrees in divorce actions and once again it states that it shall be sent to the County Clerk to be entered on the transfer records of the County but there is nothing that says it goes to the Office of the Register of Deeds.

Now, I know that it has always been the practice that a copy of a decree which affects title to real estate goes to the Register of Deeds; but I sometimes think they sometimes fail to get there. From the records in the Office of the Register of Deeds and the matter of searching titles, I think the intent of the new law is fine, but the mechanics of it leave me somewhat perplexed and fearful.

First, I note the form which the Legislature has provided and which calls for the signature of the Judge of the District Court and it is entitled "Certificate of Title". To me, this indicates that the Judge of the District Court is certifying to the validity of the title when as a matter of fact all the Judge of the District Court may know is the outcome of the subject lawsuit. And, I'm not certain when this so-called "Certificate of Title" would be filed. The statute says when the "decree shall become final". Is that 30 days after it is entered or could it be after the time to reopen a judgment to correct mistakes has passed or would it be when an appeal has been taken and the final decree has come down? Also, I have before me a copy of a so-called "Certificate of Title" printed by Lockwood Company, Inc. and it says as follows:

> "This is to certify that _____ has acquired title in the following property . . .".

What does it mean "title in"? The law says that the certificate shall be that the named person has acquired "title to". There is a vast difference in owning "title in" and "title to".

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I have looked at the suggested "Certificate of Title" as the Legislature put in the law. It is obvious the Legislature was trying to consolidate onto one sheet of paper two separate types of journal entries. The first would be

> "In the Matter of the Estate of James Jones, Deceased" or
>
> "In the Matter of the Conservatorship of James Jones" or
>
> "In the Matter of the Condemnation of Land . . ."

and similar types of cases both in probate division and civil division.

The second is for a case such as a divorce action or a partition action or a quiet title action, etc. where you have John Doe vs. Richard Roe, Case No. _____. The form as proposed by Lockwood doesn't make this very clear and it is my opinion that whatever else is done, that there should be a clarification regarding the so-called "Certificate of Title". But, we then come down to the very disturbing part, in my opinion, which says it is the responsibility of the Judge of the District Court to prepare and file the document. Does it become the responsibility of the Judge to personally verify all the facts to which he is certifying? What if the attorney has made a misdescription or an error in a description of a piece of property? It can happen. What if you have property involved in a probate matter or in a partition action or anything else that is located in two counties? Does the Judge file only in the county wherein the judgment was rendered or does he also file into the foreign county? Whose obligation is it then to prepare and file the transcript?

Judge Clement, assuming that this law is necessary, and I strongly suspicion it was pushed by the Register of Deeds Association and maybe by the Abstracters, that the following changes would be in order.

1. The document should not be a "Certificate of Title" which sounds too much like a title to a vehicle or a title under the Torrens Land System. I suggest it would be denominated "Abstract of Judgment". Then, this should be prepared as any other pleading by the prevailing attorney and then the following:

Abstract of Judgment

The judgment rendered in the above entitled matter on the ____ day of _____, 19___, shows that title to the following described real estate was transferred by the judgment from _____ to _____ whose last known address is as follows _____ _____. This Abstract of Judgment shall be filed of record with the Register of Deeds _____ County, Kansas, to reflect the judgment above referred to.

_____
Judge of the District Court

This Abstract of Judgment prepared by:

(name and address of the attorney who has prepared the document).

To supplement this, it is my opinion there should be some court rules, maybe adopted by the Supreme Court, and if not by the Supreme Court, then local rules, as follows:

1. In any action wherein title to real estate is involved, the real estate involved must be described with particularity

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according to the legal description, lot and block and subdivision if in a city and section, township and range if in the country.

Judge, I have seen many, many cases and especially marital matters where real estate is only referred to obliquely or perhaps by a street address. It becomes a very confusing and uncertain proposition.

2. It should be the responsibility of the prevailing party to prepare the "Abstract of Judgment" above referred to and to present it to the Judge for his review and signature along with the Journal Entry in the case. However, this presents a problem. The judgment may not be final when the journal entry is prepared for there still may be an appeal time or a motion for a new trial so I suspicion the abstract should be prepared at such time as the judgment becomes final but once again it should be the responsibility of the attorney for the prevailing party. It should not be the District Judge. We should not expect the District Judge to maintain a calendar or a tickler system so that everyday he has to check back to see what judgments have become final so that the "Abstract" can be prepared and filed.

Judge Clement, I would think that the Judge's Association would be very interested in this matter. Also, it might be advisable for the Judges to visit with the Abstracter's Association regarding the matter. I will be pleased to help in any way I can. As I stated at the beginning, there may be some reason for the law, but the old system has proved pretty satisfactory and following the old maxim, "if it ain't broke, don't fix it". But if we are going to "fix it", then I do think it should be done in a manner other than that as prescribed by the Legislature.

Very truly yours,

Lee Hornbaker

LEE HORNBAKER, for the Firm.

LH:lw

Paul Shelby
OVI

RESOLUTION

BE IT RESOLVED that the Kansas District Judges' Association favors enactment of House Bill 2644, which effectively repeals that portion of K.S.A. 1989 Supp. 58-2242a requiring a district court judge to file a certificate of title with the register of deeds each time title is transferred or confirmed by any decree or judgment of the district court.

January 23rd 1990
Date

Sam L. Bruner
Sam Bruner
District Judge
President, KDJA

23 Jan 1990
Date

Paul E. Miller
Paul Miller
District Judge
Legislative Chairman, KDJA

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Attachment III

STATE OF KANSAS
TWENTIETH JUDICIAL DISTRICT

BARRY A. BENNINGTON
DISTRICT JUDGE DIVISION NO. 1
STAFFORD COUNTY COURTHOUSE
ST. JOHN, KANSAS 67576
316-549-3296

FOR YOUR INFORMATION
SENT BY
ROY M. EHRLICH
STATE SENATE

October 25, 1989

Senator Roy M. Ehrlich
Rt. 1, Box 92
Hoisington, Kansas 67544

Dear Senator:

All of your senatorial district lies within the 20th Judicial District. Therefore I am writing you regarding Senate Bill 268 that was passed during the last legislative session. Senate Bill 268 was introduced at the request of the Register of Deeds Association and met little opposition in its course through the Kansas Legislature. However, since July 1, 1989, several problems have come to light in attempting to implement this law. It now seems to me it causes many more problems than it solves. I therefore hope you will be sympathetic to any attempts to repeal this law that may arise in the next session of the legislature.

Rather than submit a lengthy narrative about this law, I offer instead my laundry list of defects and complaints.

1. The forms mandated by the bill require the caption to use the titles "petitioner" and "respondent" which are often inappropriate.

2. The form requires the judge to "certify" that so-and-so has "acquired title" to a particular piece of property. This may well be a misleading statement as so-and-so may only have acquired an interest in the property.

3. In multi-party litigation the form does not provide for showing who the "grantor" of the title is--instead it implies it is the opposing party or the judge.

4. The form designates its title to be CERTIFICATE OF TITLE. I have always believed that a certificate of title was an instrument prepared by an abstractor certifying the

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record owner of a piece of property. Certificate of title as used here is a misnomer.

5. The certificate is most like a transcript of judgment but it does not deserve even that title.

6. I am told the purpose of the bill is to provide "one-stop shopping" for titles. The bill fails in that purpose. The records of the clerk of the district court and county treasurer must still be checked.

7. Every attorney with whom I have discussed the certificates has indicated that he or she does not believe the certificate provides any basis for determining title. Every attorney has said they will use the original journal entry filed in the court files, not the certificate.

8. The certificate is not to be filed until the judgment is final. I find many attorneys are forgetting to file the document after the appeal period or filing before the appeal period is up.

9. The certificate means more work for the attorney and more expense for the client. If the certificate is unreliable how can this expense be justified? Isn't this contrary to the current movement to reduce litigation expense?

10. The certificate means more work for the judge, clerk of the court and register of deeds. If the certificate is unreliable how can this extra work (and expense to the taxpayer) be justified?

11. The certificate will be abstracted by an abstractor meaning more unnecessary expense for the property owners.

12. I have found typographical errors in these certificates to be common. As I sit in a multicounty district and the certificates are mailed to me for signature, I do not have the opportunity to check them against the journal entry for errors. Consequently, I believe many erroneous certificates will be filed.

13. Finally, and most importantly from my personal perspective, the certificate represents an administrative act, not a judicial act. Therefore, if someone's title is clouded by an incorrect certificate, the signing judge may well be personally liable for damages and without the shield of immunity.

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Att III

For these reasons, I urge the repeal of S.B. 268, now Chapter 174 of the 1989 Session Laws of Kansas.

Respectfully submitted,

Barry A. Bennington
District Judge, Division I
Twentieth Judicial District

BAB/sk

1/24/90
H. Jud Com
Att III

LAW OFFICES OF

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GEORGE C. BRUCE

November 14, 1989

Judge Barry A. Bennington
District Judge - Division No. 1
Stafford County Courthouse
St. John, Kansas 67576

Re: Our File No. 1000-27

Dear Judge Bennington:

Thank you for your letter of October 25, 1989, regarding certificates of title issued pursuant to K.S.A. 58-2242(a) and K.S.A. 59-2249. There was considerable discussion at the last meeting of the Committee on Title Standards of the Kansas Bar Association regarding this matter. It was the feeling of the Committee that the certificate of title could potentially create many title problems and could not be relied upon in contravention of the original court proceedings. It was the consensus of the Committee that the bill creating the aforesaid changes be repealed, but, in view of an uncertain future in that regard, the Committee passed a new standard (Standard 1.5) regarding the same. I have enclosed a copy of the standard for your review.

If you have any further questions, please let me know.

Very truly yours,

MARTIN, PRINGLE, OLIVER,
WALLACE & SWARTZ

Douglas S. Pringle

Douglas S. Pringle

DSP/pfg
Enclosure

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T. Gaddis
Att III

1.5 CERTIFICATES OF TITLE ISSUED UNDER K.S.A. 58-2242(a) and K.S.A. 59-2249.

PROBLEM: Are Titles affected by Certificates of Title filed in the Office of the Register of Deeds under K.S.A. 59-2242(a) and K.S.A. 59-2249?

1.5

NO: Certificates of Title recorded under K.S.A. 58-2242(a) and 59-2249 are not muniments of title as defined by K.S.A. 58-3402 of the Kansas Marketable Title Act. The title examiner should require that the abstract of title contain the original court proceedings which are the basis for any certificate of title. The title examiner should rely upon the original court proceedings and should disregard any inconsistencies between the court proceedings and the certificates of title.

Linda Fincham

M. SVILLE, KANSAS 66508

REGISTER OF DEEDS
MARSHALL COUNTY

913-562-3226

Good afternoon Chairman O'Neil and members of the Committee. I am Linda Fincham, Legislative Chairman for the Register of Deeds Association.

Because of an ongoing problem with a gap in the chain of title in the real estate records in the Register of Deeds Office and at the request of the Kansas Property Valuation Department, the Register of Deeds Association last year asked for and a bill was drafted and introduced as a means to a more complete chain of title in the Register of Deeds Office. With no opposition at that time, the bill passed the senate and house and became law July 1, 1989.

Now, we are here again, this time to oppose H.B. 2644 which would repeal the existing law concerning the Certificates of Title. The concept of the Certitificate of Title is good. Much of the property that is transferred today is transferred by divorce, descent or probate proceedings, these actions are rarely recorded in the Register of Deeds offices.

Registrars are not trying to abstract property; however according to K.S.A. 58-2221.....it shall be the duty of the Register of Deeds to file the same for record immediately, and in those counties where a numerical index is maintained in his or her office, the Register of Deeds shall compare such instrument, before coping the same in the records, with the last record of transfer.

To comply with K.S.A. 58-2221, if the record of last transfer is not found in our office, we go to the Clerk of the District Courts office, check the file and read the final order to determine the heirs, devisees and legatees. During reappraisal, the County appraisers also had problems in determining the last owner of record, and they were in agreement that a doucment such as a Certificate of Title would serve as notice in the numerical index and would be a much faster and easier solution to obtain the last record owner then to search probate files and read page after page of final orders in court cases.

Since the Certificates of Title went into effect, they have been a helpful aid in our office when attorneys, oil and gas land men, bankers and the general public use our records. The Certificate of Title serves as a simple notice to the public and now helps close the gap in the chain of title that so often confused people as to why their names do not appear as the last record owner in our office records.

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Attachment IV

The Certificates of Title have also been a great tool, especially in court cases filed in other counties. Now those counties mail the Certificate of Title to the counties where the property is located, helping the appraisers as well as serving notice in the Register of Deeds records.

Our constituents are pleased with this Certificate of Title, few have voiced an opinion against the Certificate of Title. Many Register of Deeds told me that they have heard words of support about the Certificates of Title.

The Register of Deeds Association is in opposition of this law being repealed. We feel that it is beneficial to keep the Certificates of Title. If the language in the present bill is unsatisfactory, we are willing to amend the bill. We might suggest amending to change Certificate of Title to "Notice" and to amend the word Certify to "Serve Notice". We are willing to work on the bill, and we strongly feel that the concept of the Certificate of Title is necessary.

In summary, the Register of Deeds Association opposes H.B. 2644 and we appreciate the time that you have given us to express our opinion.

We would appreciate your consideration.

1/24/90
H. Jud. Com.
Att IV

Michael j. Waite
attorney at law
520 South 4th Street
Chambers Building
Leavenworth, Kansas 66048
913/651-2900

January 24, 1990

Susie Parmer
Register of Deeds
Leavenworth County Courthouse
Leavenworth, Kansas 66048

Dear Susie:

I'm writing to you in response to your questions regarding the past requirement of filing a certificate of title in the register of deeds office whenever a Judicial action that is filed in the County of Leavenworth has any effect on real estate within this County. In the time that this requirement has been in effect, I have encountered no difficulties in any of the cases tht I have been involved with that deal with real estate. It is an extra step but a minor one, and does not cause my any difficulty.

Further, I see nothing objectionable with your proposed amendment changing this certificate to certificate of notice.

Finally, in the last year that I have been President of the Leavenworth County Bar Association, and this procedure has been in effect, I have received no complaints from any of the practicing attorneys who have had to follow this procedure. I can only assume from not having received any objections that at least the Leavenworth County bar doesnot find this procedure objectionalbe and that it has not caused them any great difficulty.

If you have any other questions, comments, or need any further information from my office, please do not hesitate to contact me.

Very truly yours,

Michael J. Waite

MJW:jcl

1/24/90
H. Jud. Com.
Attachment V