

Approved: 3-14-00
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:10 a.m. on March 8, 2000, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Tony Folsom, Board of Tax Appeals
Representative Larry Campbell
Matt Goddard, Heartland Community Bankers Association
Marilyn Nichols, Kansas Register of Deeds Association

Others attending: See attached list.

HB 2620—Property taxation; concerning property valuation appeals procedures

Senator Langworthy called attention to written testimony in support of **HB 2620** by Representative Tom Sloan, who introduced the bill. Representative Sloan was unable to testify because the House was in session. He states in his written testimony that the bill was introduced to address concerns expressed by taxpayers who appealed their property valuations and lost but did not understand how the information presented by the appraiser outweighed the information they provided. The taxpayers complained that they were provided little explanation for the decision. Representative Sloan notes that, without an adequate explanation for the hearing officer's decision, taxpayers are left without a tangible basis on which to decide whether to appeal further or to accept the logic of the hearing officer's decision. (Attachment 1)

Chris Courtwright, Legislative Research Department, briefed the Committee on the provisions of **HB 2620**. He explained that the bill would amend the property tax valuation appeals and payment-under-protest procedures to require that decisions of the new Small Claims Division of the State Board of Tax Appeals (SBOTA) be accompanied by "a written explanation of the reasoning" upon which the decisions are based. A similar requirement would be added to K.S.A. 1999 Supp. 79-1606 relative to decisions made by county-appointed hearing officers. Under a House floor amendment, the written explanation requirement also would apply to determinations made by county appraisers after the informal first step in the appeals process under K.S.A. 1999 Supp 79-1448.

Mr. Courtwright explained that the original fiscal note, which was based upon different wording relating to "Findings of fact and law," indicated that additional expenditures could be as high as \$250,000 because it would involve additional costs for the use of legal staff. However, when the bill left the House, Tony Folsom, Executive Director for SBOTA, agreed that the fiscal note would be substantially less with the change to "a written explanation of the reasoning." In this regard, Mr. Courtwright called attention to copies of a new fiscal note prepared by Mr. Folsom which indicates that the fiscal note is now \$17,500 for added administrative costs that SBOTA would incur in providing the written explanations to accompany the findings of the Small Claims Division. (Attachment 2)

Senator Langworthy asked Mr. Folsom if there is a need for the bill. Mr. Folsom responded that SBOTA has no statement on whether the bill should be adopted or not and that he believes it is a policy determination to be made by the Legislature. He went on to explain that **HB 2620**, as amended, would not require hearing officers in the Small Claims Division to do much more than the Board is currently requiring them to do. He also noted that, since the hearing officers for the Small Claims Division are not employees of the Board but

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE
Room 519-S, Statehouse, at 11:10 a.m. on March 8, 2000.

are contractual employees, the Board has little control over their decisions. He agreed with Senator Langworthy that this type of legislation would give the Board more leverage. Senator Langworthy asked whether the requirement for written explanations could be included in the contract with the hearing officers. Mr. Folsom responded that the requirement could be included in the contract; however, the Board has concerns that more control over hearing officers would result in the officers being perceived as employees of the Board rather than as contractual employees.

HB 2621—Property tax; concerning notification of county treasurers of real estate

Senator Langworthy noted that **HB 2621** was jointly introduced by Representatives Tom Sloan and Troy Findley. She called attention to written testimony in support of the bill by both representatives. Their written testimony explains that some mortgage institutions (generally not Kansas based) do not notify the Register of Deeds in a timely manner that a mortgage is paid off. Some mortgage institutions frequently do not include the form specifying to whom tax notices should be sent. The result is that each year hundreds of Kansas homeowners do not pay their property taxes because they were not sent the "tax due" notice. The bill as amended by the House Committee of the Whole places the mortgage satisfaction notification requirement upon registers of deeds instead of mortgagees. (Attachments 3 and 4)

Representative Larry Campbell testified in support of **HB 2621**. He explained that proponents requested the bill because in rare cases a mortgage is released, but the county treasurer is not notified in time to send the tax statement to the proper place. As introduced, the bill simply stated that the mortgagee must notify the county treasurer. Representative Campbell carried three amendments on the House floor which were supported by the sponsors of the bill. He explained that the final amendment would require registers of deeds under certain circumstances to notify county treasurers within 30 days when certain real estate mortgage obligations have been recorded as satisfied. This will ensure that the treasurer can timely send the tax bill to the proper place. The requirement would apply only when mortgagees are serving as escrow agents for property tax payment purposes. He noted that pursuant to K.S.A. 58-2309a registers of deeds currently are required to provide mortgage satisfaction information to county clerks. (Attachment 5)

Representative Campbell confirmed that the final amendment he offered made his two other amendments moot; therefore, they should be removed from the bill. Staff explained that lines 35 through 40 on page two of the bill need to be removed.

Matt Goddard, Heartland Community Bankers Association, testified in support of **HB 2621** and on behalf of Representative Sloan. Mr. Goddard stated that the problem the bill addresses does not occur with regard to Kansas financial institutions but rather with regard to out-of-state loan service companies who are unresponsive to their customers once their mortgage is released. He has heard accounts of the escrow company simply ignoring or discarding tax statements of former escrow customers. He believes the bill is needed to address the occasional break down in communication in a county courthouse which occurs in the present system. (Attachment 6)

Marilyn Nichols, Shawnee County Register of Deeds, testified on behalf of the Kansas Register of Deeds Association. She pointed out that registers of deeds are currently obligated to notify the county clerk upon recording of a satisfaction of mortgage when the mortgagee has been acting as escrow agent for tax purposes. The register of deeds is furnished with any address change for the tax statement along the statement of satisfaction of the mortgage from the mortgagee. Ms. Nichols noted that the county clerk currently has the responsibility of maintaining the tax roll address; therefore, she does not understand the reasoning behind the proposed change in procedure. (Attachment 7)

Ms. Nichols informed the Committee that the current system works in Shawnee County and that she has had no problem with communication with the county clerk's office or the treasurer's office. She simply forwards the information she receives on to the clerk's office. She noted that in Shawnee County the treasurer's office does not have the responsibility to be the keeper of the records for the tax roll. She believes the bill would result in a duplication of effort. If the bill is passed, she feels that perhaps her office will need an additional staff member to look up tax roll addresses.

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In response to Committee questions, staff confirmed that the county clerk in every Kansas county keeps the tax rolls and delivers them to the treasurer's office for the preparation of tax statements. Therefore, the Committee questioned the need for the bill.

The hearings on **HB 2620** and **HB 2621** were closed, and the meeting was adjourned at 11:35 a.m.

The next meeting is scheduled for March 9, 2000.

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
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TOPEKA

HOUSE OF
REPRESENTATIVES

TESTIMONY ON HB2620 - CONCERNING PROPERTY VALUATION APPEALS

Thank you Madame Chairman, committee members. During the summer and fall, 1999, several taxpayers contacted me after they had appealed the valuation assigned to their property by the County Appraisers.

While the appraisers do an excellent job, the values assigned are more subjective than rigorously scientific. This being the case, differences of opinion will sometimes arise over the value assigned when the value is not determined by the sale of that property, but rather by examining the sale of what may, or may not, be comparable properties.

The residential and commercial property owners who contacted me had all formally appealed their property valuations and lost. They unanimously complained that when the decision was made by the hearing officers, they were provided little explanation for that decision.

HB2620 was introduced to address the taxpayers concern that they do not understand how the information presented by the appraiser could outweigh the information provided by the taxpayer. As amended HB2620 requires property valuation hearing officers to provide "a written explanation of the reasoning" upon which the decision is made. This language was adopted in collaboration with Tony Folsom, Executive Director and General Counsel for the Board of Tax Appeals.

This requirement will necessitate a little more work for the hearing officer, but an important principle of governance is involved here - the right of the people to understand and have confidence in the taxation system. Without an adequate explanation for the hearing officer's decision, taxpayers are left without a tangible basis on which to decide whether to appeal further or upon which to, begrudgingly, accept the logic and fairness of the hearing officer's decision.

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Attachment 1

The entire tax system of Kansas and the United States relies on the goodwill and compliance of the taxpayers. One way in which the goodwill can be enhanced is by making the workings of government more accessible and evident to the citizenry. **HB2620** will minimally inconvenience agents of the government, while significantly increasing taxpayer confidence in the fairness of the tax laws and the implementation.

Thank you for the opportunity to testify on this simple bill. I ask you to support **HB2620**. Remember - these citizens already question the fairness of the tax system, let's reassure them that due consideration of their documented objection and evidence were provided.

Estimation of costs to the Small Claims Division to comply with HB 2620, as amended, which requires Small Claims Hearing Officers to include in their decisions on valuation appeals a "written explanation of the reasoning upon which such decision is based."

We are projecting 4,200 appeals to Small Claims for FY 2001. We believe that it would require hearing officers to spend 5-10 minutes more per decision in order to comply with the proposed legislation. Hearing Officers are contracted to hold hearings and are paid \$25.00 per hour. They are compensated for hearing time and time spent reviewing and drafting their decisions. The estimated maximum cost would be as follows:

$4,200 \text{ appeals} \times 10 \text{ min.} = 42,000 \text{ min.}$

$42,000 \text{ min} \div 60 \text{ min./hour} = 700 \text{ hours}$

$700 \text{ hours} \times \$25.00/\text{hour} = \$17,500$

Of course, the time required to comply with the proposed legislation depends on how the language of the amendment is interpreted. It is my understanding of the amendment, and the above estimate is based upon, interpreting the language to mean that a short written explanation is all that is required. This would mean that in the majority of cases one to two sentences would be sufficient. However, there are other cases that may require more explanation.

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3-8-00
Attachment 2

TOM SLOAN
 REPRESENTATIVE, 45TH DISTRICT
 DOUGLAS COUNTY

COMMITTEE ASSIGNMENTS
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TOPEKA

HOUSE OF
 REPRESENTATIVES

TESTIMONY ON HB2621 CONCERNING NOTIFICATION OF PROPERTY TAX OBLIGATIONS

Madame Chairman, members of the committee, thank you for the opportunity to address HB2621. The issue addressed in this bill was brought to my attention by local Douglas County officials.

Many “homeowners” do not directly pay their property taxes. Rather, each month the financial institution holding the mortgage places money in an escrow account to pay property taxes at the appropriate time.

County Treasurers provide the homeowner with a notification of the property’s assessed valuation and the financial institution receives the tax notice. The mortgage holder then provides the homeowner with a statement showing the amount of the taxes and that the taxes were paid.

After 20 to 30 years of not directly paying property taxes, the homeowner pays off the mortgage. The financial institution that held the mortgage sends a “release of mortgage” form to the County Register of Deeds and a form detailing the name and address of the person who should receive future tax notices. The Register of Deeds then provides this information to the County Treasurer and County Clerk.

In talking with County Administrators, County Treasurers, and Registers of Deeds, two problems have occurred: 1) some mortgage institutions (generally not Kansas-based) will take up to 4 months to notify the Register of Deeds of the mortgage being paid, and 2) those same mortgage institutions frequently do not include the form specifying to whom the tax notices should be sent.

The result is that each year, hundreds of Kansas homeowners do not pay their property taxes because they were not sent the “tax due” notice. This is **NOT** the fault of the County Treasurers, the Registers of Deeds, or the homeowners. It is the fault of the mortgage companies that do not provide information in a timely manner. HB2621 will require notification to County Registers-of-Deeds within 30 days of when the mortgage is paid off. County Treasurers can then appropriately issue “tax due” notices and property owners will no longer miss tax payment dates, be subject to penalties and interest, and be agitated as a result of circumstances which were beyond their control.

After HB2621 was introduced, the Community Bankers representative and the Revisor identified

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 Attachment 3*

a more appropriate means of protecting property owners from less than conscientious financial institutions. The House Committee of the Whole addressed this issue with the amended language.

The Douglas County Treasurer testified before the House Tax Committee on behalf of herself and the Douglas County Commissioners in support of this bill. Due to other scheduled business, the Treasurer is not able to appear before you today. Her testimony before the House Committee stated that this is not solely a Douglas County issue, but impacts all counties statewide.

HB2621, as proposed to be amended, will impose a minimal increase in the mortgage holding institution's workload, but taxpayers and County Treasurers will significantly benefit. I ask for your support of this common sense approach to helping Kansas homeowners/taxpayers and local officials.

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TOPEKA

HOUSE OF
REPRESENTATIVES

DEMOCRATIC POLICY CHAIR
COMMITTEE ASSIGNMENTS
MEMBER: ECONOMIC DEVELOPMENT
FEDERAL AND STATE AFFAIRS
FISCAL OVERSIGHT
TAXATION

Testimony on House Bill 2621
Senate Assessment and Taxation Committee
March 8, 2000

Madame Chair and Members of the Senate Assessment and Taxation Committee:

Thank you very much for this opportunity to present testimony in support of House Bill 2621.

HB 2621 would require registers of deeds under certain circumstances to notify county treasurers within 30 days when certain real estate mortgage obligations have been recorded as satisfied.

HB 2621 was introduced at the request of the Douglas County Treasurer, who cited that each year hundreds of Kansas homeowners do not pay their taxes, because they were not sent the proper "tax due" notice.

This occurs because under the current system, when mortgage companies fail to notify the county in a timely manner that a mortgage contract has been satisfied, the county treasurer is unable to provide notice to the taxpayers.

The result is that homeowners do not receive a property tax statement and some who are accustomed to paying property taxes in their monthly mortgage payments subsequently fail to pay their property taxes on time, thereby incurring penalties. HB 2621 seeks to remedy this particular problem.

House Bill 2621 was amended by the House Committee of the Whole to place the mortgage satisfaction notification requirement upon registers of deeds instead of mortgagees. Currently, registers of deeds are required pursuant to KSA 58-2309a to provide mortgage satisfaction information to county clerks.

Additional floor amendments clarified that these requirements would not apply to the recording of satisfaction of mortgage contracts for which there are agreements for the making of future advances secured by such contracts, and that the notification requirement would only apply when mortgages are serving as escrow agents for property tax payment purposes.

I would respectfully ask the committee to take favorable action on HB 2621. Thank you again for this opportunity to present testimony.

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Attachment 4

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
HOUSE TAXATION COMMITTEE
HOUSE ECONOMIC DEVELOPMENT
KANSAS 2000
TOURISM

March 8, 2000

To: Members of the Senate Assessment & Taxation Committee

From: Representative Larry L. Campbell

Subject: HB 2621

HB 2621 would require registers of deeds under certain circumstances to notify county treasurers within 30 days when certain real estate mortgage obligations have been recorded as satisfied. The requirement would not apply regarding the recording of satisfaction of mortgage contracts for which there are agreements for the making of future advances secured by such contracts. The requirement also would apply only when mortgagees are serving as escrow agents for property tax payment purposes.

The original bill would have required mortgagees to notify county treasurers upon the satisfaction of real estate mortgage contracts. House Committee of the Whole amendments included eliminating the requirement for mortgagees and placing it instead upon registers of deeds.

Registers of deeds currently are required pursuant to KSA 58-2309a to provide mortgage satisfaction information to county clerks.

The Budget Division reports that passage of HB 2621 would not impact state revenues or expenditures.

Your favorable support for HB 2621 will be appreciated.

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Attachment 5



Matthew S. Goddard, Vice President

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To: Senate Assessment and Taxation Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: March 8, 2000

Re: House Bill No. 2621

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Committee on Assessment and Taxation to express our support for House Bill 2621.

The Heartland Community Bankers Association represents savings institutions in Kansas, Colorado, Nebraska and Oklahoma. For the first nine months of 1999, Kansas savings associations made more than \$1.6 billion in residential mortgage loans.

House Bill 2621 amends KSA 79-2001 to require, within 30 days after satisfaction of a mortgage, that the register of deeds notify the county treasurer in the county where the property is located that the mortgage obligation has been satisfied. Under current law, K.S.A. 58-2309a already requires the office of the register of deeds to notify the county clerk when a mortgage obligation is satisfied.

The bill is intended to address the problem of homeowners who do not receive a property tax statement before their taxes become delinquent because their tax bill is sent to the lender or escrow agent who, before the mortgage was satisfied, previously paid property taxes on behalf of the taxpayer. The intent of HB 2621 is that the county treasurer would now know to send the property tax statement directly to the taxpayer.

We do not believe it is HCBA members or other Kansas financial institutions that are responsible for the problem that makes HB 2621 necessary. Rather it is out-of-state loan service companies who are unresponsive to their customers once their mortgage is released. For example, many loan servicers contract out escrow services. We have heard accounts of the escrow company simply ignoring or discarding tax statements for former escrow customers. We are confident that Kansas lenders either forward the tax statement on to their former borrower or alert the county treasurer that the tax statement should be redirected.

It is important to understand that the problem of taxpayers not receiving a property tax statement will not go away overnight, even with passage of HB 2621. Loan servicers that are not responsive now will most likely remain unresponsive. Unfortunately, those companies do exist. However, House Bill 2621 will make sure that the people of Kansas are not forced to go through the experience of delinquent property taxes simply because of a lack of communication in a county courthouse.

The Heartland Community Bankers Association respectfully requests that the Senate Assessment and Taxation Committee recommend HB 2621 favorable for passage.

Thank you.

SERVING FINANCIAL INSTITUTIONS IN COLORADO, KANSAS, NEBRASKA, AND OKLAHOMA

Senate Assessment & Taxation

3-8-00

Attachment 6

KANSAS REGISTER OF DEEDS ASSOCIATION

President-Marcia Johnson, Barton County
Vice President-Kari Weis, Sheridan County
Secretary-Susan Lucas, Stanton County
Treasurer-Jeanette Nepote, Crawford County

Legislative Co-Chairs-Nancy Prawl, Brown County
Marilyn Nichols, Shawnee County

House Bill 2621

I am here today on behalf of the Kansas Register of Deeds Association. We thank you for the opportunity to provide input during your decision making process.

Our understanding of the intent of this bill is to require the Register of Deeds to notify the County Treasurer upon recording of a satisfaction of mortgage when the mortgagee has been acting as escrow agent for tax purposes.

Our current obligation is to notify the County Clerk; and we are furnished with a statement from the mortgagee, along with the satisfaction of mortgage, as to the address change, if any, for the tax statement. The County Clerk has the responsibility of maintaining the tax roll address, as you well know. Therefore, we do not understand the reasoning behind the change in procedure. While we certainly understand the necessity of having the tax roll address accurate, the Registrar's across the state are not sure of the necessity of the change or of the methods were are to use to carry out the statue if this bill should pass as amended. Is there to be one more form, one more step to follow, additional research to be done with every recording? The timely return of documents might be effected if we must research the current tax statement status.

I will be happy to stand for any questions and would be most willing to share with this distinguished committee the procedures for which my office records said satisfactions.

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Attachment 7