

Testimony on HB 2548
Before House Committee on Local Government
February 7, 2012

Thank you, Mr. Chairman and members of the committee for allowing me to address the committee today. Currently Kansas Statute 79-2102 provides that a taxpayer who owes taxes on personal property may avoid issuance of a warrant by providing to the treasurer an affidavit of poverty. Obviously this statute was adopted as a means of providing some temporary relief to impoverished or infirm taxpayers.

However an Attorney General's opinion issued April 5, 1991 states that since "this act provides no criteria or guidelines for determining the existence of poverty or infirmity in a specific situation, the county treasurer must accept affidavits sworn to in accordance with that statute. A court may examine the veracity of or factual basis for such a sworn statement and may determine whether perjury, false writing, or false oath penalties should be imposed, but the treasurer has no discretion in accepting the statement." That same opinion later explains that the statute does not extinguish the obligation to pay personal property tax, but since the county treasurer is prevented from issuing a warrant, the county is powerless to force payment unless the treasurer and county commissioners are willing to take the matter to court.

Statute 79-2102 was first adopted in 1876 and was last amended in 1923. In discussions with county treasurers, State Treasurer Ron Evans, and the Kansas Association of Counties, it appears that 79-2102 is seldom, if ever, used by delinquent taxpayers. In fact, some county treasurers were unaware that this statute even existed. I suspect that most personal property taxpayers are also not aware of it.

Recently, however, an oil company used 79-2102 to avoid paying personal property taxes on their producing oil wells in Lane County. I will leave it to Lane County Treasurer Pat Sharp to explain to you the difficulties this caused. I will simply observe that I seriously doubt that the

oil company's use of 79-2102 is what the original authors of the legislation would have considered a legitimate use of the statute.

It is my opinion that K.S.A. 79-2102 is an outdated statute that has outlived its usefulness. HB 2548 would repeal 79-2102. It is possible that there are instances when personal property taxpayers cannot pay on time, so to address that issue HB 2548 would also amend K.S.A. 79-2024. Presently that statute allows a county treasurer to accept partial payment of delinquent real property tax in accordance with payment guidelines established by the treasurer. HB 2548 would amend 79-2024 to allow similar payment agreements to be adopted for the payment of delinquent personal property taxes.

Passage of HB 2548 would repeal an outdated statute that is currently subject to possible abuse. That statute would be replaced with an orderly procedure for payment of delinquent personal property taxes that could satisfy both the needs of the taxpayer and local government.

Thank you for your consideration of this issue and I look forward to your questions.