



January 30, 2012

To: Senate Committee on Local Government

From: Kathleen A. Taylor, Kansas Bankers Association *Kat.*

Re: SB 346: Tax Foreclosure Sales

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in opposition of SB 346, which would amend K.S.A. 79-2804g and 79-2804h, which deals with tax foreclosure sales, to strike the language that allows the sale of real estate to a mortgagee of record at such sales.

As you know, the mortgagee of record has a lawful interest in the real estate being sold for delinquent tax sales. The mortgagee has loaned money to the property owner, and in exchange, the property owner has granted a security interest in the real estate – to secure repayment of the loan.

This bill would deny the mortgagee the right to protect its security interest in that property, should a municipality hold a foreclosure sale for delinquent taxes. Many times, the mortgagee is the only party that appears and bids in at the sale. The winning bidder must pay all delinquent taxes first, so the municipality's lien is satisfied before the property is transferred.

We believe it is unlawful to prohibit a party with a valid, consensual interest in real estate, from participating in a process to protect its interest in that property. In all other instances of foreclosure, every party with an interest in the real estate must be joined. If any interested party is missing from the process, the foreclosure may be set aside. A tax foreclosure sale should be no different.

It is my understanding that the intent of this bill is to prohibit transfers from the mortgagee back to the owner of the property. If that is to be the policy of the State of Kansas, then we believe the bill needs to be re-drafted to so state.

In conclusion, we would ask that the Committee consider **SB 346** unfavorably for passage. Thank you for your time and attention today.