

Testimony of Randall S. Barbour  
Kansas Land Title Association  
House Rural Revitalization Committee  
Written Neutral Testimony on House Bill 2516  
February 11, 2020

Chairman Smith and members of the House Rural Revitalization Committee:

On behalf of the Kansas Land Title Association (KLTA), we applaud the goal of HB 2516 – the first time homebuyers savings account, but must express our concern about the potential unintended consequence of one subsection of the bill. Since 1907, the KLTA has represented the interests of licensed abstractors and title insurance agents who specialize in the orderly and secure transfer of real estate in Kansas.

To be clear, we support the concept of first-time home buyer savings accounts as we believe they will encourage home ownership and will help make home purchases for younger first-time buyers a reality.

However, our members are concerned that the language in New Sec. 4(a)(3) [p.3, Lines 23-27] could be interpreted by a court of law as being an unrecorded restriction on the transfer of those pieces of real estate purchased with the funds from these new savings accounts. If it is in fact a restriction, we see no provisions for providing constructive notice, enforcement of and removal of the restriction. Absent this constructive notice we're concerned the transfer could be challenged and the court could overturn the sale to a purchaser who one of our members had insured or given a title opinion to potentially resulting in costs, attorney fees and complete failure of title.

We believe the intent of the language is to have a penalty for violation, that penalty being merely that the funds will be subject to the same taxes that were avoided by use of the savings accounts.

For these reasons, while the Kansas Land Title Association supports the intent of HB 2516 we feel an amendment to New Section 4. (a)(3) is necessary to clarify that the penalty and enforcement provisions are only in the form of taxation and not a restriction on the land. We have suggested potential amending language to New Section 4. (a)(3) which can be found below.

Thank you very much for your consideration today.

Randall S. Barbour  
KLTA Legislative Co-Chairman

**Suggested amendment to HB 2516, page 3, lines 23-27:**

New Sec. 4. (a)

(3) ~~If~~ the title of any home purchased or constructed with moneys from an account ~~shall not~~ transfers ~~for~~ ~~at least~~ within two years of the application of moneys from the account toward the purchase or construction of the home, the moneys so applied shall be subject to recapture for taxation as provided in this act. ~~unless reasonable circumstances exist that were unforeseen at the time the home was purchased or constructed.~~ A designated beneficiary may request an exception from the requirements of this paragraph from the secretary ~~if reasonable circumstances exist that were unforeseen at the time the home was purchased or constructed.~~