

Approved: 2-16-93
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Keith Roe at 9:00 a.m. on February 11, 1993 in Room 519-S of the Capitol.

All members were present except:
Representative Brown, excused

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Lenore Olson, Committee Secretary

Conferees appearing before the committee:
Representative Mike O'Neal
Elwin Cabbage, attorney, Martindale, Swearer & Shaffer
Karen France, Kansas Association of Realtors
David Cunningham, Director, Division of Property Valuation
Sara Ullman, Register of Deeds Association

Others attending: See attached list

After Committee review, the minutes of February 4, 1993, were approved as printed.

Chairperson Roe opened the hearing on HB 2065.

HB 2065 Real estate sales validation questionnaires completed by agent of grantor or grantee.

Representative Mike O'Neal testified in support of HB 2065 and introduced Elwin Cabbage from Hutchinson.

Elwin Cabbage, attorney, Martindale, Swearer & Shaffer, testified in support of HB 2065. He said that often it is not feasible to complete the validation questionnaire at the time the instrument of conveyance is executed (Attachment 1).

Karen France, Kansas Association of Realtors, testified in support of HB 2065, stating that agents for grantors or grantees should be permitted to sign the forms. Ms. France requested that this bill be amended to reflect that the certificates of value as well as the sales validation questionnaires are limited access documents (Attachment 2).

David Cunningham, Director, Division of Property Valuation, testified in opposition to HB 2065. Mr. Cunningham stated that the proposed changes in this bill will render the Sales Validation Questionnaire meaningless in most cases (Attachment 3).

Sara Ullman, Register of Deeds Association, testified that the Association takes a neutral stand on HB 2065, but if any change is to be made, they simply ask that the language in the bill give them clear guidance as to whose signature they can accept (Attachment 4).

Chairperson Roe closed the hearing on HB 2065.

The Chair directed the Committee to turn to HB 2210.

HB 2210 Tax lid for local governments.

Chris Courtwright, Kansas Legislative Research Department, presented an update on Committee actions taken on HB 2210 on February 10, 1993 (Attachment 5).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on February 11, 1993.

A motion was made by Representative Empson, seconded by Representative Wagnon, to amend HB 2210 to clarify the language on page 3, line 34, adding the words "including loans pursuant to K.S.A. 65-3321 through K.S.A. 65-3329." The motion carried.

A motion was made by Representative Mays, seconded by Representative Pottorff, to amend HB 2210 to add a new exemption for elderly services levies. The motion carried.

A motion was made by Representative Adkins, seconded by Representative McKinney, to amend HB 2210 to sunset the tax lid laws on July 1, 1995. The motion failed.

A motion was made by Representative Crowell, seconded by Representative Empson, to amend HB 2210 to restore the exemption for county homes for the aged expenses. The motion carried.

A motion was made by Representative Adkins, seconded by Representative Welshimer, to amend HB 2210 to include increases in costs for district and municipal court expenses. The motion failed.

A motion was made by Representative Grotewiel, seconded by Representative Empson, to pass HB 2210 favorable as amended. The motion carried.

The meeting adjourned at 10:15 a.m.

The next meeting is scheduled for February 12, 1993.

Date: 2/11/92

GUEST REGISTER

HOUSE COMMITTEE ON
ASSESSMENT AND TAXATION

[illegible]

TESTIMONY

OF

ELWIN F. CABBAGE
Martindell, Swearer & Shaffer
400 Wiley Building
P. O. Box 1907
Hutchinson, KS 67504-1907

before

HOUSE TAXATION COMMITTEE

on

February 11, 1993

I appreciate the opportunity to appear before this committee to present testimony concerning HOUSE BILL NO. 2065 which would amend K.S.A. 1992 Supp. 79-1437c to permit completion of the real estate sales validation questionnaire by the agent of the grantor or grantee as well as the grantor or grantee.

The concept of requiring the filing of a certificate of value (now real estate sales validation questionnaire) as a condition precedent to recording a deed or instrument providing for transfer of title to real estate was introduced with the enactment of Senate Bill No. 438 in the 1967 Session of the Kansas Legislature. (L. 1967, ch. 310, §1) and (K.S.A. 1967 Supp. 58-2223a) A certificate of value by the grantee or his agent was required.

The 1968 Session of the Kansas Legislature amended K.S.A. 1967 Supp. 58-2223a changing the requirement to provide for a "certificate of value by the grantor, grantee or his agent" (emphasis added) (L. 1968, ch. 336, §2) and (K.S.A. 1968 Supp. 58-2223a)

The 1976 edition of Volume 4, Kansas Statutes Annotated reflects an apparent editorial change in K.S.A. 58-2223a by adding "or her" in the phrase "certificate of value by the grantor, grantee or his or her agent."

The 1991 Session of the Kansas Legislature changed the format of the certificate of value and gave it a new title i.e. real estate sale validation questionnaire. (L. 1991, ch. 162, §3) and (K.S.A. 1991 Supp. 79-1437c) However, the persons permitted to complete the new real estate sale validation questionnaire remained "...the grantor, grantee or his or her agent..." (L. 1991, ch. 162, §3) and (K.S.A. 1991 Supp. 79-1437c)

2/11/93

House Taxation Cmte
Attachment 1

The certificate of value/real estate sales validation questionnaire was from its inception in 1967 permitted to be completed by an agent of the grantee; and then from 1968, by an agent of the grantor or grantee. This authorization continued until April 30, 1992, the effective date of Senate Bill No. 598 enacted by the 1992 Session of the Kansas Legislature, a period of approximately twenty-five (25) years. Senate Bill No. 598 struck the authorization for completion of the real estate sales validation questionnaire by the agent of the grantor or grantee. (L. 1992, ch. 159, §1 and L. 1992, ch. 282, §18) and (K.S.A. Supp. 1992 79-1437c)

The real estate sales questionnaire devised by the director of property valuation pursuant to the provisions of K.S.A. 1992 Supp. 79-1437d (copy attached) concludes with a certification to the correctness of the questionnaire, signed by a person who is identified as either the grantor or grantee. Thus, interpreting the phrase "...completed real estate sales validation questionnaire by the grantor or grantee..." to require signature of either the grantor or grantee.

Often it is not feasible to complete the questionnaire at the time the instrument of conveyance is executed. If the grantor is an absentee owner or unavailable for some other reason when the conveyance should be recorded, there is a delay of the recording of the conveyance until either the grantor or grantee can be located to obtain that party's signature. The result is often a delay and inconvenience in completing the real estate transaction. For example, an individual owner of real estate may commence negotiations in a general way for its sale, leaving the remaining negotiations to be handled through an agent. The owner, to demonstrate good faith, may likely deliver an executed deed to owner's agent to hold for delivery to purchaser if and when the transaction is closed. Typically, the completion of the questionnaire would be delayed until the transaction was certain so that (a) the facts for completion of the questionnaire were known and (b) not to "run up" expenses in the event the transaction was not completed. If in the meantime the owner returns to owner's home out of state or embarks upon an extended vacation, there may be a delay in obtaining the signature of the owner.

Also, simple oversight to obtain the signature of grantor or grantee at the time of execution of the conveyance can result in delay of recording the conveyance while signature of grantor or grantee on the questionnaire is being sought.

Another concern arises from the removal of authority of an agent of grantor or grantee to execute the questionnaire. Assume that A, owner of real estate has granted to B a durable power of attorney which includes the power to sell real estate; that prospective purchaser C has granted to D a durable power of attorney which includes the power to purchase real estate; and that

after both A and C have become incapacitated it is desirable for D in the exercise of his power to purchase for C real estate owned by A. In order for such a transaction to be completed under these circumstances, B and D acting as agents of their respective principals, A and C, may conclude the transaction under the powers given them under the durable powers of attorney. Is this transaction to be thwarted simply because only "agents" are available to sign the questionnaire?

Also, because there is not uniformity of interpretation at the clerical level in the various offices of register of deeds concerning exemption from furnishing the questionnaire, it is sometimes more "cost effective" to complete a questionnaire. Again, if the grantor or grantee is not immediately available, there is delay in filing the underlying document.

It has been deemed of sufficient importance to receive the information concerning a real estate transfer contained in the questionnaire, that such information be furnished as a condition precedent to the recording of the conveyance of the real estate. I submit that it is in the best interest of the director of property valuation to receive such information with the least amount of restriction instead of making the process of furnishing the information more difficult. Permitting the agent of the grantor or grantee to supply the desired information over the signature of the agent makes the process less restrictive and at the same time would avoid delay in recording the underlying instrument.

It is interesting to note that the same sales transaction is required by the Internal Revenue Service to be reported on Form 1099-S by persons other than the grantor or grantee, except in the case of last resort by the grantee. Such other persons are to act in the following order:

1. Settlement or closing agent.
2. Grantee's attorney
3. Grantor's attorney
4. Disbursing title or escrow company
5. Mortgage lender
6. Transferors broker
7. Transferee's broker

In conclusion, I would urge the enactment of HOUSE BILL NO. 2065 which would authorize agents of the grantor or grantee to complete and sign the real estate sales validation questionnaire. This would facilitate reporting of the valuation information needed by the director of valuation and avoid delay in recording instruments necessary to the conclusion of real estate transactions.

KANSAS REAL ESTATE SALES VALIDATION QUESTIONNAIRE

FOR COUNTY USE ONLY:		# _____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	
DEED BOOK _____ PAGE _____	COV _____	CO. NO. _____	MAP _____	SEC _____	SHEET _____	QTR. _____	BLOCK _____	PARCEL _____	OWN _____				
RECORDING DATE ____/____/____	TYPE OF INSTRUMENT _____ SPLIT <input type="checkbox"/>		MO YR TY		AMOUNT		\$		V				
CR _____ RA _____ DE _____		MULTI <input type="checkbox"/>											

SELLER (Grantor)
NAME _____

BUYER (Grantee)
NAME _____

MAILING _____
(If known)
ADDRESS _____

MAILING _____
ADDRESS _____

BRIEF LEGAL DESCRIPTION

Property/Situs Address: _____
Mailing address for tax statements _____

In reference to the sale of the property listed above, please answer the questions below.

1. CHECK ANY FACTORS THAT APPLY TO THIS SALE:

☐ Sale between immediate family members:

☐ SPECIFY THE RELATIONSHIP _____

☐ Sale involved corporate affiliates belonging to the same parent company

☐ Auction Sale

☐ Sheriff sale pursuant to a court order

☐ Forced, or distressed, sale in a bankruptcy settlement

☐ Sale by judicial order (by a guardian, executor, conservator, administrator, or trustee of an estate)

☐ Sale involved a government agency or public utility

☐ Buyer (new owner) is a religious, charitable, or benevolent organization, school or educational association

☐ Buyer (new owner) is a financial institution, insurance company, pension fund, or mortgage corporation

☐ Sale was a foreclosure of a mortgage or forfeiture of a contract for deed (land contract)

☐ Sale of only a partial interest in the real estate

☐ Sale involved a trade or exchange of properties

☐ NONE OF THE ABOVE

2. USE OF PROPERTY AT THE TIME OF SALE:

<input type="checkbox"/> Single Family Residence	<input type="checkbox"/> Vacant Lot/Land
<input type="checkbox"/> Farm/Ranch with Residence	<input type="checkbox"/> Agricultural Land
<input type="checkbox"/> Ag Land with Ag Buildings	<input type="checkbox"/> Apartment Building
<input type="checkbox"/> Condominium Unit	<input type="checkbox"/> Commercial/Industrial Bldg.
<input type="checkbox"/> Other: (Specify) _____	

3. WAS THE PROPERTY SUBJECT TO AN EXISTING LEASE AT THE TIME OF SALE? ☐ YES ☐ NO

4. DID THE SALE PRICE INCLUDE AN EXISTING (GOING CONCERN) BUSINESS ENTERPRISE? ☐ YES ☐ NO

5. WAS ANY PERSONAL PROPERTY (SUCH AS FURNITURE, EQUIPMENT, MACHINERY, LIVESTOCK, CROPS, BUSINESS FRANCHISE OR INVENTORY, ETC.) INCLUDED IN THE SALE PRICE? ☐ YES ☐ NO

If yes, please describe _____

Estimated value of all personal property items included in the sale price \$ _____

6. HAS THE PROPERTY CHANGED SINCE JAN. 1? YES ☐ NO ☐

☐ Demolition ☐ New Construction ☐ Remodeling ☐ Additions

Date of Change _____ Cost \$ _____

7. ARE ANY SPECIAL ASSESSMENTS LEVIED AGAINST THE PROPERTY? YES ☐ NO ☐

If yes: annual amount _____ No. of yrs. _____

8. WERE ANY DELINQUENT REAL ESTATE TAXES ASSUMED BY THE PURCHASER? YES ☐ NO ☐

9. METHOD OF FINANCING (check all that apply):

☐ Assumption of Existing Loan(s) ☐ All Cash

☐ Seller Financing ☐ New loan(s) from a Financial Institution

☐ Trade of Property

10. WAS THE PROPERTY LISTED OR ADVERTISED FOR SALE? ☐ Yes Months _____ ☐ No

11. ARE THERE ANY FACTS WHICH WOULD CAUSE THIS SALE TO BE A NON-ARMS LENGTH/NON-MARKET VALUE TRANSACTION? (PLEASE SEE #11 INSTRUCTION) _____

12. TOTAL SALE PRICE \$ _____

SALE DATE ____/____/____

13. I HEREBY CERTIFY THAT THE SALE VALIDATION QUESTIONNAIRE INFORMATION FOR THE PROPERTY TRANSFERRED BY THE DEED OR INSTRUMENT ATTACHED IS TO THE BEST OF MY KNOWLEDGE CORRECT.

I FURTHER CERTIFY THAT THE ADDRESS TO WHICH TAX STATEMENTS FOR THE PROPERTY ARE TO BE SENT IS CORRECT.

SIGNATURE _____

GRANTOR (SELLER) ☐ GRANTEE (BUYER) ☐

DAYTIME PHONE NUMBER _____

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INSTRUCTIONS FOR COMPLETING THE SALES VALIDATION QUESTIONNAIRE

ITEM 1

Please check all boxes which pertain.

ITEM 2

Check the box which describes the current or most recent use of the property at the time of sale. Check all boxes which are applicable if the property has multiple uses.

ITEM 3

Check yes; if the buyer assumed any long term lease(s) (more than 3 years remaining) at the time of sale

ITEM 4

Check yes; if the purchase price included an operating business, franchise, trade license, patent, trademark, stock, bonds, technology, and/or goodwill.

ITEM 5

Check yes; if any tangible and portable items of property were included in the sale price. If possible, provide a brief description and your estimate of the total value of all personal property included in the sale price.

ITEM 6

Check yes; if the property characteristics have been changed since January 1. Indicate what type of change(s) took place by marking the appropriate box. Indicate the date the change(s) took place and the estimated cost involved.

ITEM 7

Check yes; if any special tax assessments are currently levied against the property. Special assessments are not general property taxes. They apply to only certain districts and only for a limited period of time. They may include such improvements as street, drainage, or sewer projects.

ITEM 8

Check yes; if any delinquent real estate taxes were assumed by the purchaser and included as part of the sale price. Do not consider any prorated taxes for the year in which the property was sold that are part of normal escrow closings.

ITEM 9

Check the predominate method of financing used to acquire the property.

ITEM 10

Check yes; if the property was offered or advertised on the open market by either the seller or real estate agent. Indicate the approximate number of months the property was exposed for sale.

ITEM 11

Provide an explanation if you believe the buyer or seller did not act prudently, was not fully informed about the property or knowledgeable of the local market, poorly advised, did not use good judgement in the negotiations, was acting under duress, or compelled out of necessity. Use an additional sheet of paper if necessary.

ITEM 12

Provide the total sale price and date of sale. The date should be the actual date the buyer and seller agreed upon a price or signed a contract for purchase necessarily, not the date the deed was recorded.

ITEM 13

Please sign the questionnaire and list your daytime phone number. The county appraiser may need to make a follow up phone call to clarify unusual terms or conditions.

TRANSFERS OF TITLE THAT DO NOT REQUIRE A SALES VALIDATION QUESTIONNAIRE ARE AS FOLLOWS:

- (1) Recorded prior to the effective date of this act;
- (2) made solely for the purpose of securing or releasing security for a debt or other obligation;
- (3) made for the purpose of confirming, correcting, modifying or supplementing a deed previously recorded, and without additional consideration;
- (4) by way of gift, donation or contribution stated in the deed or other instruments;
- (5) to cemetery lots;
- (6) by leases and transfers of several mineral interests;
- (7) to a trust, and without consideration;
- (8) resulting from a divorce settlement where one party transfers interest in property to the other;
- (9) made solely for the purpose of creating a joint tenancy or tenancy in common;
- (10) by way of a sheriff's deed;
- (11) by way of a deed which has been in escrow for longer than five years
- (12) by way of a quit claim deed filed for the purpose of clearing title encumbrances; or
- (13) when title is transferred to convey right-of-way or pursuant to eminent domain.

(b) When a real estate sales validation questionnaire is not required due to one or more of the exemptions provided in 1-13 above, the exemption shall be clearly stated on the document being filed.



Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/267-3610

TO: THE HOUSE TAXATION COMMITTEE

FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS

SUBJECT: HB 2056, SALES VALIDATION QUESTIONNAIRES

DATE: FEBRUARY 11, 1993

Thank you for the opportunity to testify. On behalf of the Kansas Association of REALTORS, I appear today to support HB 2056 and to ask for an amendment.

We support permitting the agents for grantors or grantees to sign the forms. We tried to have this permitted in last year's legislation on the topic. We have received numerous complaints from the field regarding the difficulty in getting grantors or grantees in every transaction to sign the forms. The typical problem seems to arise for out of town buyers and sellers. A problem also arises in HUD property sales where HUD designates an agent to handle the transaction completely.

We also ask you to amend the bill to correct an inadvertent oversight in the legislation which you passed in 1991 when the legislature transformed the certificates of value into the sales validation questionnaire.

The Open Records Act essentially provides that all records held by government entities are open records unless there is specific statutory exemption stating otherwise. The old certificate of value law contained just such statutory language. The sales validation questionnaire is accessible only to certain individuals who have a specific need to know the information. The Legislature has established numerous times in the last several years that the sales information should not be a public record, subject to publication in the newspapers.

However, when the certificates of value were transformed into the sales validation questionnaire, the statutory language referring to the certificates of value were eliminated from the law, along with the statutory exemption to the Open Records Act. Thus, the Department of Revenue has ruled in a March 18 letter that the old certificates of value which are of record in the Register of Deeds offices are now a public record subject to publication in the newspaper. I have attached a copy of that opinion by Bill Waters to my testimony.

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House Taxation Cmte
Attachment 2

intended such a consequence when it repealed the certificate of value law. We respectfully request that this bill be amended to reflect that the certificates of value as well as the sales validation questionnaires are limited access documents. We believe this is a technical cleanup amendment, clarifying the original intent of the legislature.

Thank you for the opportunity to testify.

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-23
FAX (913) 296-23

Department of Revenue
Division of Property Valuation

March 18, 1992

Dear

You asked whether a certificate of value which was filed prior to July 1, 1991, is available to appraisers licensed or certified pursuant to K.S.A. 58-410 et seq.

The general rule is all public records of the state and political subdivisions of the state are open to public inspection and copying. K.S.A. 44-216, K.S.A. 45-218 and 45-219. However, certain records are not required to be open. Closed or limited access records are specified in the open records act (K.S.A. 45-215 et seq.) or other state laws.

Formerly, certificates of value had limited access. K.S.A. 1990 Supp. 58-2223b provided in pertinent part as follows:

"The contents of certificates [of value] shall be made available to the county clerk for the purpose of preparing the report to the director of property valuation, any property owner who has appealed the valuation of property pursuant to K.S.A. 79-1448, and amendments thereto, and only to the extent of the contents of those certificates concerning the same class of property as that of the property being appealed, the county appraiser and appraisers employed by the county for appraisal of property located within the county, if any, and to the board of county commissioners but such contents shall not be otherwise disclosed by any party having access to anyone other than the director of property valuation, the county appraiser or the appraiser's designee, hearing officers or panels appointed pursuant to K.S.A. 79-1602, and amendments thereto or to the board of tax appeals or

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county board of equalization in the event of proceedings before such boards."

However, K.S.A. 1990 Supp. 58-2223b was repealed effective July 1, 1991. See L. 1991, ch. 162, § 9. Thus, apparently certificates of value are no longer subject to limited access, but are open to public inspection and copying. I am reasonably sure this was not the legislature's intent when they repealed K.S.A. 1990 Supp. 58-2223b, but the fact remains that there is currently no law restricting access to certificates of value.

Effective July 1, 1991, certificates of value are no longer required whenever a deed or instrument providing for the transfer of real estate is recorded in the office of register of deeds. Effective July 1, 1991, a real estate sales validation questionnaire is required whenever a deed or instrument providing for the transfer of title to real estate or affidavit of equitable interest is recorded in the office of register of deeds. See K.S.A. 1991 Supp. 1437c.

The real estate sales validation questionnaire, like the certificate of value before it, is a limited access document. See K.S.A. 1991 Supp. 79-1437f. Among other disclosures allowed by law, the contents of a real estate sales validation questionnaire may be made available to appraisers licensed or certified pursuant to K.S.A. 58-4101 *et seq.*

No Kansas law gave appraisers licensed or certified pursuant to K.S.A. 58-4101 *et seq.* access to certificates of value. However, in light of the fact that certificates of value are now apparently a public record, anyone, including appraisers licensed or certified pursuant to K.S.A. 58-4101 *et seq.* may have access to them.

K.S.A. 21-3914 provides that it is a class C misdemeanor to knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed in any public record with exceptions not relevant to your inquiry.

I hope this information is helpful. If you have further questions please contact me at your convenience.

Sincerely,

Bill Waters

Bill Waters
Chief Attorney

BW:bw

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and taxation during any such year or any year within four years next preceding any such year.

History: L. 1985, ch. 309, § 1; L. 1987, ch. 372, § 3; L. 1990, ch. 346, § 1; July 1.

Law Review and Bar Journal References:

"Survey of Kansas Law: Taxation," Sandra Craig McKenzie and Eric B. Milstead, 37 K.L.R. 961, 982 (1989).

Attorney General's Opinions:

Merchants' and manufacturers' inventory; recertifying valuations of public utility property; time for collection. 90-8.

79-1435.

History: L. 1949, ch. 224, § 1; L. 1965, ch. 516, § 1; L. 1967, ch. 489, § 1; L. 1972, ch. 362, § 1; Repealed, L. 1992, ch. 131, § 10; July 1.

79-1436.

History: L. 1949, ch. 224, § 2; L. 1965, ch. 516, § 2; L. 1967, ch. 489, § 2; L. 1972, ch. 362, § 2; L. 1974, ch. 428, § 1; L. 1982, ch. 397, § 1; L. 1989, ch. 2, § 7 (Special Session); L. 1991, ch. 162, § 8; Repealed, L. 1992, ch. 131, § 10; July 1.

79-1436a.

History: L. 1967, ch. 489, § 3; L. 1969, ch. 435, § 1; L. 1972, ch. 362, § 3; L. 1985, ch. 311, § 5; Repealed, L. 1992, ch. 131, § 10; July 1.

79-1436b.

History: L. 1969, ch. 435, § 2; L. 1972, ch. 363, § 1; L. 1974, ch. 428, § 2; L. 1976, ch. 423, § 1; L. 1978, ch. 396, § 2; Repealed, L. 1992, ch. 131, § 10; July 1.

79-1437.

History: L. 1949, ch. 224, § 3; L. 1965, ch. 516, § 3; L. 1967, ch. 489, § 4; L. 1972, ch. 362, § 4; L. 1974, ch. 428, § 3; L. 1982, ch. 397, § 2; L. 1985, ch. 311, § 6; L. 1986, ch. 374, § 1; L. 1989, ch. 2, § 8 (Special Session); Repealed, L. 1992, ch. 131, § 10; July 1.

79-1437a.

History: L. 1967, ch. 489, § 5; Repealed, L. 1992, ch. 131, § 10; July 1.

79-1437c. Real estate sales validation questionnaires; required to accompany transfers of title; retention time; use of information. No deed or instrument providing for the transfer of title to real estate or affidavit of equitable interest in real estate shall be recorded in the office of the register of deeds unless such deed, instrument or affidavit shall be accompanied by a completed real estate sales validation

questionnaire by the grantor or grantee concerning the property transferred. Such questionnaire shall not be filed of record by the register of deeds but shall be retained for a period of five years at which time they shall be destroyed. The register of deeds shall in conjunction with the county clerk use the information derived from such questionnaires in cooperating with and assisting the director of property valuation in developing the information as provided for in K.S.A. 1992 Supp. 79-1487, and amendments thereto.

History: L. 1991, ch. 162, § 3; L. 1992, ch. 159, § 1; L. 1992, ch. 282, § 18; May 28.

Attorney General's Opinions:

Real estate appraisers and assessment of property; real estate sales questionnaire; what constitutes an agent. 91-105.

Open public records; real estate sales validation questionnaires; certified or licensed appraisers. 92-38.

79-1437d. Same; devised by director of property valuation; approval by legislature; information to be contained therein. The real estate sales questionnaire shall be devised by the director of property valuation, and the director shall furnish copies thereof to the register of deeds. Upon proposing modifications or changes to the real estate sales validation questionnaire devised and used prior to 1992 or any validation questionnaire approved by the legislature in 1992 or thereafter, the director of property valuation shall submit such proposal to the legislature. Upon the failure of the legislature to enact legislation modifying the director's proposal within 60 days of submission thereof, such proposal shall be deemed to be approved, and the director's modified questionnaire may be utilized at anytime thereafter. The questionnaire shall be devised to obtain information regarding the identification and location of the property, name and address of the purchaser, sales price, date of sale, the classification and subclassification to which such property belongs, nature and circumstances peculiar to the sale, whether any personal property was included in the sales price, whether the purchaser assumed any mortgages or liens, loans, leases or taxes, the method of financing, whether any special assessments are levied against the property and such other information as the director of property valuation shall require. No information shall be requested in such questionnaire which would require the disclosure of the interest rate paid by the purchaser or the specific term of any mortgage.

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History: L. 1991, ch. 162, § 4; July 1.

Attorney General's Opinions:

Real estate appraisers and assessment of property; real estate sales questionnaire; what constitutes an agent. 91-105.

79-1437e. Same; inapplicability to certain transfers of title. (a) The real estate sales validation questionnaire required by this act shall not apply to transfers of title:

(1) Recorded prior to the effective date of this act;

(2) made solely for the purpose of securing or releasing security for a debt or other obligation;

(3) made for the purpose of confirming, correcting, modifying or supplementing a deed previously recorded, and without additional consideration;

(4) by way of gift, donation or contribution stated in the deed or other instrument;

(5) to cemetery lots;

(6) by leases and transfers of severed mineral interests;

(7) to a trust, and without consideration;

(8) resulting from a divorce settlement where one party transfers interest in property to the other;

(9) made solely for the purpose of creating a joint tenancy or tenancy in common;

(10) by way of a sheriff's deed;

(11) by way of a deed which has been in escrow for longer than five years;

(12) by way of a quit claim deed filed for the purpose of clearing title encumbrances; or

(13) when title is transferred to convey right-of-way or pursuant to eminent domain.

(b) When a real estate sales validation questionnaire is not required due to one or more of the exemptions provided in subsection (a), the exemption shall be clearly stated on the document being filed.

History: L. 1991, ch. 162, § 5; L. 1992, ch. 159, § 2; April 30.

79-1437f. Same; disposition and use of contents thereof, to and by whom. The contents of the real estate sales validation questionnaire shall be made available only to the following people for the purposes listed hereafter:

(a) County officials for cooperating with and assisting the director of property valuation in developing the information as provided for in K.S.A. 1992 Supp. 79-1487, and amendments thereto;

(b) any property owner, or the owner's representative, for prosecuting an appeal of the valuation of such owner's property or for determining whether to make such an appeal, but access shall be limited to the contents of those questionnaires concerning the same constitutionally prescribed subclass of property as that of such owner's property;

(c) the county appraiser and appraisers employed by the county for the appraisal of property located within the county;

(d) appraisers licensed or certified pursuant to K.S.A. 58-4101 *et seq.*, and amendments thereto, for appraisal of property and preparation of appraisal reports;

(e) financial institutions for conducting appraisals as required by federal and state regulators;

(f) the county appraiser or the appraiser's designee, hearing officers or panels appointed pursuant to K.S.A. 79-1602 or K.S.A. 1992 Supp. 79-1611, and amendments thereto, and the state board of tax appeals for conducting valuation appeal proceedings;

(g) the board of county commissioners for conducting any of the board's statutorily prescribed duties; and

(h) the director of property valuation for conducting any of the director's statutorily prescribed duties.

History: L. 1991, ch. 162, § 6; L. 1992, ch. 282, § 19; May 28.

Attorney General's Opinions:

Open public records; real estate sales validation questionnaires; certified or licensed appraisers. 92-38.

79-1437g. Same; penalty for violations. Any person who shall falsify the value of real estate transferred shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.

History: L. 1991, ch. 162, § 7; L. 1992, ch. 159, § 3; April 30.

Attorney General's Opinions:

Real estate appraisers and assessment of property; real estate sales questionnaire; what constitutes an agent. 91-105.

79-1439. Appraisal of real and tangible personal property at fair market value in money; exceptions; rate of assessment. (a) All real and tangible personal property which is subject to general ad valorem taxation shall be appraised uniformly and equally as to class and, unless otherwise specified herein, shall be appraised at its fair market value, as defined in K.S.A. 79-503a, and amendments thereto.

STATE OF KANSAS

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Department of Revenue
Division of Property Valuation

MEMORANDUM

To: Representative Keith Roe, Chairman,
House Taxation Committee

From: David C. Cunningham, Director,
Division of Property Valuation

Date: February 11, 1993

Subject: House Bill No. 2065

Thank you for the opportunity to testify on House Bill No. 2065. I appear today in opposition to this bill because the proposed changes to K.S.A. 1992 Supp. 79-1437c will render the Sales Validation Questionnaire meaningless in most cases. It has been the experience of PVD and the counties that agents for the grantor or grantee do not have the requisite knowledge to accurately complete this form. Without accurate information, it is more difficult, time consuming and expensive to validate sales for valuation purposes. I have included examples of the way agents have typically completed the questionnaire. As you can see, the form is virtually worthless.

I would respectfully suggest that the issue of whether agents should be allowed to sign this form be delayed for another year or two to gain additional experience as to the difficulty grantors and grantees have completing and signing the form. There is no question that it is, at times, difficult to obtain the grantor's or grantee's signature; however, I believe the benefit of having the most knowledgeable parties complete and sign this form currently outweigh what I believe is a minor problem.

I would be happy to answer any questions.

2/11/93
House Taxation Comte
Attachment 3

REGISTER OF DEEDS

KANSAS

ASSOCIATION

PRESIDENT Charlotte Shawver
VICE-PRESIDENT Janice Gillispie

Rose Ann Rupp SECRETARY
Sharlene Wright TREASURER

TO: House Committee on Taxation

FROM: Sara F. Ullmann, Johnson County and Linda Fincham, Marshall County
Co-Chairs Legislative Committee, Register of Deeds Association

RE: H.B. 2065

DATE: February 8, 1993

Thank you for the opportunity to testify on this bill.

Although the requirement to have only the grantor or grantee sign the Real Estate Sales Validation Questionnaire, has caused problems in some instances, the Register of Deeds association takes a neutral stand on this bill.

We understand that the object of this requirement is to obtain the best information possible for appraisal purposes. If any change is made, we simply ask that the language in the bill give us clear guidance as to whose signature we can accept. Currently, we do accept the signature of an agent, if documentation of a power of attorney for either the grantor or grantee, is provided at the time of filing.

We would be available to stand for any questions from the committee.

2/11/93
House Taxation Cmte
Attachment 4

DRAFT

MEMORANDUM

2/11/1993

Rep Keith Roe; Rep Joan Wagnon
FROM: Chris W. Courtwright, Principal Analyst
RE: HB 2210 as amended by House Tax on 2/10

This memo is in response to your request for a summary of HB 2210 as it now stands based upon the amendments of February 10.

HB 2210 as Amended

HB 2210 would reimpose a permanent aggregate dollar limitation (property tax lid) on cities, counties, townships, community colleges, and Washburn. Among the changes to the previous tax lid are that the base year would be changed from a choice of either 1988 or 1989 to a choice of 1991 or 1992. Those special districts not under the lid have their fund levy limits adjusted to account for changes in valuation for all years subsequent to 1992, and all statutory fund levy limits would continue to be suspended. The cities, counties, townships, comm colleges, and Washburn would be prohibited from from levying more in dollars than they levied in 1991 or 1992, subject again to some exemptions and the ability to charter out of the tax lid.

Three of the exemptions in the previous tax lid would be left totally intact: (1) judgments, settlements, and tort liability costs; (2) principal and interest on loans, bonds, notes, and no-fund warrants; (3) levies to finance budgets of subdivisions without their own taxing power (public libraries, recreation commissions, etc).

Several types of expenditures would remain exempt, but only for INCREASES over the 1992 amounts (the entire levies would no longer be exempt): (1) district court and juvenile detention expenses; (2) out-district tuition to community colleges and Washburn; (3) county hospital expenses; (4) certain mental health and mental retardation levies; and (5) employer contributions for social security, workers compensation, health insurance, unemployment insurance, and employee retirement and pension programs.

New exemptions would be added for increases in solid waste management costs and water quality treatment costs mandated by state or federal law.

The exemption for levies used to offset motor vehicle tax decreases would be continued, but the 1993 budget allocation would be designated as the new base.

Finally, the prior exemption for homes for the aged expenses would be totally eliminated from the new tax lid.

Description of Amendments

The original bill would have required that only 1992 be used as the base year; would have required mandatory elections to escape the tax lid; and would have eliminated exemptions for mental health and mental retardation services and for employee health insurance contributions.

The House Tax Committee amended the bill to allow a choice between 1991 and 1992 as the base year; to remove the mandatory election and restore the protest provision requirements under which local units attempting to exempt themselves from the lid have operated in recent years; to restore exemptions for mental health and mental retardation and health insurance available under the previous lid; and to add the new exemptions for increases in solid waste management and water quality treatment costs mandated by state or federal law.

2/11/93
House Taxation Cmte
Attachment 5