



Date: February 1, 2023

To: House Committee on Local Government Representative Emil Berquist, Chairman

From: Kelly VanZwoll, Assistant Vice President – Government Relations Kansas Bankers Association

Re: Verbal Proponent Testimony – HB 2083

Mr. Chairman and committee members, I am Kelly VanZwoll providing testimony on behalf of the Kansas Bankers Association (KBA). The KBA was organized in 1887, and our membership includes 98% of the 220 banks and savings & loans headquartered in Kansas. Our membership also includes 20 out-of-state commercial banks operating in Kansas. The Kansas banking industry employs more than 22,000 Kansans that provide financial services in every county across the state. Our organizational mission statement is:

"Together, we support our member banks and bankers with leadership, advocacy, and education to benefit the communities and customers they serve."

HB 2083 would create the Kansas Vacant Property Act to prohibit municipalities from imposing fees or registration requirements on unoccupied residential or commercial property. Some municipalities within Kansas have passed local ordinances creating vacant property registrations that require the owner to register and pay a fee for their vacant properties. These ordinances include financial institutions as "owners."

Kansas is a lien theory state, not a title theory, and as such a mortgagee is not entitled to immediate possession of property upon default. A lien does not equal a title, it is simply a security in the indebtedness of the property. Therefore, when a financial institution forecloses, and the property is vacant during the foreclosure period, the mortgagee or lender is legally not allowed to sell the property until the foreclosure process is complete. The foreclosure process can last a minimum of 12 to 18 months. This means that under some of the existing ordinances, lenders would then be required to pay a fee to the city for that period even though the bank cannot do anything to the property. Even when the court foreclosure is complete and the property is sold at Sheriff's sale, there is an additional 3 to 12 month statutory redemption period which continues to block the bank's ability to do anything with the property. The bank would have to take additional legal action to reduce the redemption period. Put another way, these ordinances require a bank to maintain and secure the real estate before becoming a true owner. Kansas case law is quite clear that even during a foreclosure action, a bank cannot take any action towards any real estate, including the abatement of any nuisances.

We understand that vacant properties can be a safety hazard and support efforts to improve that. Our members believe in being strong community partners with our local municipalities; however, we believe imposing excessive fees for a vacant property registry is unnecessary and



KANSAS BANKERS ASSOCIATION

unfair to financial institutions that do not truly own the property. We support the concept of HB 2083 and would be happy to work with any interested parties to make this legislation work.

Again, Mr. Chairman, thank you for your time, and if you or the committee have questions or require additional information, don't hesitate to get in touch with me at kvanzwooll@ksbankers.com or (785) 232-3444.