



**Date: March 21, 2023**

**To: Senate Committee on Local Government  
Senator Carolyn McGinn, Chair**

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

**Re: Verbal Proponent Testimony – HB 2083**

Madam Chair 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, as amended, would create the Kansas Vacant Property Act to prohibit municipalities from imposing fees on unoccupied residential or commercial property based solely on the property being vacant. Some municipalities across 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.

After the hearing in the House Local Government Committee a group of stakeholders came together and developed compromise language allowing municipalities to create these vacant



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property registries, but not charge a fee for them. The bill was also amended to include language to prohibit a municipality from imposing any responsibility of property ownership on a legal or equitable mortgagee or lienholder. Finally, it was amended to include language to clarify the terms mortgagee and lienholder include any legal or equitable mortgagee or lienholder with an interest in the property. This language reflects Kansas case law and clarifies the financial institution's true role as the mortgagee or lienholder and not the owner. Once the foreclosure process is finished and the financial institution is the owner they will be treated by the municipality as any other owner.

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 unfair to financial institutions that do not truly own the property. We support HB 2083 as amended and appreciate all of the stakeholders who came together on this bill.

Again, Madam Chair, 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 [kvanzwoll@ksbankers.com](mailto:kvanzwoll@ksbankers.com) or (785) 232-3444.