

Substitute for SENATE BILL No. 298

By Committee on Assessment and Taxation

1 AN ACT concerning the recording of certain documents and instruments;
2 relating to certain fees paid thereon to the register of deeds; mortgage
3 registration tax; county clerk technology fund; amending K.S.A. 79-
4 3102 and K.S.A. 2013 Supp. 28-115 and repealing the existing
5 sections; also repealing K.S.A. 79-3101, 79-3102, as amended by
6 section 2 of 2014 Substitute for Senate Bill No. 298, 79-3103, 79-3104,
7 79-3105, 79-3106, 79-3107, 79-3107a and 79-3107b and K.S.A. 2013
8 Supp. 79-3107c.

9
10 Be it enacted by the Legislature of the State of Kansas:

11 Section 1. K.S.A. 2013 Supp. 28-115 is hereby amended to read as
12 follows: 28-115. (a) The register of deeds of each county shall charge and
13 collect the following fees:

Table with 2 columns: Description of fee and Amount. Includes items like 'For recording deeds, mortgages or other instruments of writing, for first page, not to exceed legal size page—8 1/2" x 14"', 'For second page and each additional page or fraction thereof', 'Recording town plats, for each page', 'Recording release or assignment of real estate mortgage', 'Certificate, certifying any instrument on record', 'Acknowledgment of a signature', 'For filing notices of tax liens under the internal revenue laws of the United States', 'For filing releases of tax liens, certificates of discharge, under the internal revenue laws of the United States or the revenue laws of the state of Kansas', 'For filing liens for materials and services under K.S.A. 58-201, and amendments thereto'.

30 (1) For the following documents received and filed prior to January
31 1, 2015, the fees shall be:

- 32 (A) For recording deeds, mortgages or other instruments of writing,
33 for first page, not to exceed legal size page—8 1/2" x 14", a fee of \$6;
34 (B) for second page and each additional page or fraction thereof of
35 deeds, mortgages or other instruments of writing, a fee of \$2;
36 (C) recording town plats, for each page, a fee of \$20;

1 (D) recording release or assignment of real estate mortgages, a fee of  
2 \$5;

3 (E) certificate, certifying any instrument on record, a fee of \$1;

4 (F) acknowledgment of a signature, a fee of \$.50;

5 (G) for filing notices of tax liens under the internal revenue laws of  
6 the United States, a fee of \$5;

7 (H) for filing releases of tax liens and certificates of discharge under  
8 the internal revenue laws of the United States or the revenue laws of the  
9 state of Kansas, a fee of \$5; and

10 (I) for filing liens for materials and services under K.S.A. 58-201,  
11 and amendments thereto, a fee of \$5.

12 (2) For the following documents received and filed on and after  
13 January 1, 2015, but prior to January 1, 2016, the fees shall ~~not exceed~~  
14 **be:**

15 (A) For recording deeds, mortgages or other instruments of writing,  
16 for first page, not to exceed legal size page—8 ½" x 14", a fee of ~~\$7~~ **\$8**;

17 (B) for second page and each additional page or fraction thereof of  
18 deeds, mortgages or other instruments of writing, a fee of ~~\$3~~ **\$5**;

19 (C) recording town plats, for each page, a fee of ~~\$21~~ **\$23**;

20 (D) recording release or assignment of real estate mortgages, a fee of  
21 ~~\$6~~ **\$8**;

22 (E) certificate, certifying any instrument on record, a fee of ~~\$2~~ **\$4**;

23 (F) acknowledgment of a signature, a fee of ~~\$1.50~~ **\$3.50**;

24 (G) for filing notices of tax liens under the internal revenue laws of  
25 the United States, a fee of ~~\$6~~ **\$8**;

26 (H) for filing releases of tax liens and certificates of discharge under  
27 the internal revenue laws of the United States or the revenue laws of the  
28 state of Kansas, a fee of ~~\$6~~ **\$8**; and

29 (I) for filing liens for materials and services under K.S.A. 58-201,  
30 and amendments thereto, a fee of ~~\$6~~ **\$8**.

31 (3) For the following documents received and filed on and after  
32 January 1, 2016, but prior to January 1, 2017, the fees shall ~~not exceed~~  
33 **be:**

34 (A) For recording deeds, mortgages or other instruments of writing,  
35 for first page, not to exceed legal size page—8 ½" x 14", a fee of ~~\$8~~ **\$11**;

36 (B) for second page and each additional page or fraction thereof of  
37 deeds, mortgages or other instruments of writing, a fee of ~~\$4~~ **\$8**;

38 (C) recording town plats, for each page, a fee of ~~\$22~~ **\$26**;

39 (D) recording release or assignment of real estate mortgages, a fee of  
40 ~~\$7~~ **\$11**;

41 (E) certificate, certifying any instrument on record, a fee of ~~\$3~~ **\$7**;

42 (F) acknowledgment of a signature, a fee of ~~\$2.50~~ **\$6.50**;

43 (G) for filing notices of tax liens under the internal revenue laws of

1 *the United States, a fee of ~~\$7~~ **\$11**;*

2 *(H) for filing releases of tax liens and certificates of discharge under*  
3 *the internal revenue laws of the United States or the revenue laws of the*  
4 *state of Kansas, a fee of ~~\$7~~ **\$11**; and*

5 *(I) for filing liens for materials and services under K.S.A. 58-201,*  
6 *and amendments thereto, a fee of ~~\$7~~ **\$11**.*

7 *(4) For the following documents received and filed on and after*  
8 *January 1, 2017, but prior to January 1, 2018, the fees shall ~~not exceed~~*  
9 ***be**:*

10 *(A) For recording deeds, mortgages or other instruments of writing,*  
11 *for first page, not to exceed legal size page—8 ½" x 14", a fee of ~~\$9~~ **\$14**;*

12 *(B) for second page and each additional page or fraction thereof of*  
13 *deeds, mortgages or other instruments of writing, a fee of ~~\$5~~ **\$11**;*

14 *(C) recording town plats, for each page, a fee of ~~\$23~~ **\$29**;*

15 *(D) recording release or assignment of real estate mortgages, a fee of*  
16 *~~\$8~~ **\$14**;*

17 *(E) certificate, certifying any instrument on record, a fee of ~~\$4~~ **\$10**;*

18 *(F) acknowledgment of a signature, a fee of ~~\$3.50~~ **\$9.50**;*

19 *(G) for filing notices of tax liens under the internal revenue laws of*  
20 *the United States, a fee of ~~\$8~~ **\$14**;*

21 *(H) for filing releases of tax liens and certificates of discharge under*  
22 *the internal revenue laws of the United States or the revenue laws of the*  
23 *state of Kansas, a fee of ~~\$8~~ **\$14**; and*

24 *(I) for filing liens for materials and services under K.S.A. 58-201,*  
25 *and amendments thereto, a fee of ~~\$8~~ **\$14**.*

26 *(5) For the following documents received and filed on and after*  
27 *January 1, 2018, the fees shall ~~not exceed~~ **be**:*

28 *(A) For recording deeds, mortgages or other instruments of writing,*  
29 *for first page, not to exceed legal size page—8 ½" x 14", a fee of ~~\$10~~ **\$17**;*

30 *(B) for second page and each additional page or fraction thereof of*  
31 *deeds, mortgages or other instruments of writing, a fee of ~~\$6~~ **\$14**;*

32 *(C) recording town plats, for each page, a fee of ~~\$24~~ **\$32**;*

33 *(D) recording release or assignment of real estate mortgages, a fee of*  
34 *~~\$9~~ **\$17**;*

35 *(E) certificate, certifying any instrument on record, a fee of ~~\$5~~ **\$13**;*

36 *(F) acknowledgment of a signature, a fee of ~~\$4.50~~ **\$12.50**;*

37 *(G) for filing notices of tax liens under the internal revenue laws of*  
38 *the United States, a fee of ~~\$9~~ **\$17**;*

39 *(H) for filing releases of tax liens and certificates of discharge under*  
40 *the internal revenue laws of the United States or the revenue laws of the*  
41 *state of Kansas, a fee of ~~\$9~~ **\$17**; and*

42 *(I) for filing liens for materials and services under K.S.A. 58-201,*  
43 *and amendments thereto, a fee of ~~\$9~~ **\$17**.*

1 (b) In addition to the fees required to be charged and collected  
2 pursuant to subsection (a), the register of deeds shall charge and collect an  
3 additional fee of \$2 per page *prior to January 1, 2015, and \$3 per page*  
4 *on and after January 1, 2015*, for recording:

5 (1) The first page of any deeds, mortgages or other instruments of  
6 writing, not to exceed legal size—8½" x 14";

7 (2) the second page and each additional page or fraction of any deeds,  
8 mortgages or instruments of writing; and

9 (3) a release or assignment of real estate mortgage.

10 Any fees collected pursuant to this subsection shall be paid by the  
11 register of deeds to the county treasurer. *Prior to January 1, 2015*, the  
12 county treasurer shall deposit such funds in the register of deeds  
13 technology fund as provided by K.S.A. 2013 Supp. 28-115a, and  
14 amendments thereto. *On and after January 1, 2015, the county treasurer*  
15 *shall deposit \$2 of such funds in the register of deeds technology fund as*  
16 *provided by K.S.A. 2013 Supp. 28-115a, and amendments thereto, and*  
17 *\$1 of such funds in the county clerk technology fund as provided by*  
18 *section 3, and amendments thereto.*

19 (c) For any filing or service provided for in the uniform commercial  
20 code, the amount therein provided, shall be charged and collected. No fee  
21 shall be charged or collected for any filing made by the secretary of health  
22 and environment or the secretary's designee pursuant to K.S.A. 39-709,  
23 and amendments thereto.

24 (d) If the name or names of the signer or signers or any notary public  
25 to any instrument to be recorded are not plainly typed or printed under the  
26 signatures affixed to the instrument, the register of deeds shall charge and  
27 collect a fee of \$1 in addition to all other fees provided in this section.

28 (e) If sufficient space is not provided for the necessary recording  
29 information and certification on a document, such recording information  
30 shall be placed on an added sheet and such sheet shall be counted as a  
31 page. The document shall be of sufficient legibility so as to produce a clear  
32 and legible reproduction ~~thereof~~. If a document is judged not to be of  
33 sufficient legibility so as to produce a clear and legible reproduction, such  
34 document shall be accompanied by an exact copy ~~thereof~~ which shall be of  
35 sufficient legibility so as to produce a clear and legible reproduction  
36 ~~thereof~~ and which shall be recorded contemporaneously with the document  
37 and shall be counted as additional pages. The register of deeds may reject  
38 any document which is not of sufficient legibility so as to produce a clear  
39 and legible reproduction ~~thereof~~.

40 (f) Any document which was filed on or after January 1, 1989, which  
41 was of a size print or type smaller than 8-point type but which otherwise  
42 was properly filed shall be deemed to be validly filed.

43 (g) All fees required to be collected pursuant to this section, except

1 those charged for the filing of liens and releases of tax liens under the  
2 internal revenue laws of the United States, shall be due and payable before  
3 the register of deeds shall be required to do the work. If the register of  
4 deeds fails to collect any of the fees provided in this section, the amount of  
5 the fees at the end of each quarter shall be deducted from the register's  
6 salary.

7 (h) Except as otherwise provided by subsection (b), all fees required  
8 to be collected pursuant to this section shall be paid by the register of  
9 deeds to the county treasurer and deposited into the general fund of the  
10 county.

11 (i) *On and after January 1, 2015, in addition to the fees required to*  
12 *be charged and collected pursuant to subsection (a), the register of deeds*  
13 *shall charge and collect an additional fee of \$1 per page for recording:*

14 (1) *The first page of any deeds, mortgages or other instruments of*  
15 *writing, not to exceed legal size—8½" x 14";*

16 (2) *the second page and each additional page or fraction of any*  
17 *deeds, mortgages or instruments of writing; and*

18 (3) *a release or assignment of real estate mortgage.*

19 *Any fees collected pursuant to this subsection shall be paid by the*  
20 *register of deeds to the county treasurer. The county treasurer shall pay*  
21 *quarterly to the state treasurer all funds accruing under this subsection.*  
22 *All such moneys paid to the state treasurer shall be deposited in the state*  
23 *treasury and credited to the heritage trust fund. No payments under this*  
24 *subsection shall be made by the county treasurer to the state treasurer*  
25 *during any calendar year in excess of a total of \$30,000. All moneys*  
26 *collected in excess of this amount which under this subsection would be*  
27 *paid to the state treasurer shall be credited to the county general fund.*

28 (j) *On and after January 1, 2015, the fee shall not exceed \$125 for*  
29 *recording single family mortgages on principal residences imposed*  
30 *pursuant to this section where the principal debt or obligation secured*  
31 *by the mortgage is \$75,000 or less.*

32 Sec. 2. K.S.A. 79-3102 is hereby amended to read as follows: 79-  
33 3102. (a) Before any mortgage of real property, or renewal or extension of  
34 such a mortgage, is received and filed for record, there shall be paid to the  
35 register of deeds of the county in which such property or any part thereof  
36 is situated a registration ~~fee of 26%~~ tax of the principal debt or obligation  
37 which is secured by such mortgage, *which tax shall be computed in*  
38 *accordance with the following schedules.* In the event the mortgage states  
39 that an amount less than the entire principal debt or obligation will be  
40 secured thereby, the registration fee shall be paid on such lesser amount.

41 (1) *For all mortgages of real property, or renewal or extension of*  
42 *such a mortgage, received and filed for record prior to January 1, 2015,*  
43 *the tax shall be 0.26% of the principal debt or obligation which is secured*

1 *by such mortgage.*

2 (2) *For all mortgages of real property, or renewal or extension of*  
3 *such a mortgage, received and filed for record on and after January 1,*  
4 *2015, but prior to January 1, 2016, the tax shall be 0.2% of the principal*  
5 *debt or obligation which is secured by such mortgage.*

6 (3) *For all mortgages of real property, or renewal or extension of*  
7 *such a mortgage, received and filed for record on and after January 1,*  
8 *2016, but prior to January 1, 2017, the tax shall be 0.15% of the principal*  
9 *debt or obligation which is secured by such mortgage.*

10 (4) *For all mortgages of real property, or renewal or extension of*  
11 *such a mortgage, received and filed for record on and after January 1,*  
12 *2017, but prior to January 1, 2018, the tax shall be 0.1% of the principal*  
13 *debt or obligation which is secured by such mortgage.*

14 (5) *For all mortgages of real property, or renewal or extension of*  
15 *such a mortgage, received and filed for record on and after January 1,*  
16 *2018, but prior to January 1, 2019, the tax shall be 0.05% of the principal*  
17 *debt or obligation which is secured by such mortgage.*

18 (6) *For all mortgages of real property, or renewal or extension of*  
19 *such a mortgage, received and filed for record on and after January 1,*  
20 *2019, the tax shall be 0.0% of the principal debt or obligation which is*  
21 *secured by such mortgage.*

22 (b) As used herein, "principal debt or obligation" shall not include  
23 any finance charges or interest.

24 (c) In any case where interest has been precomputed, the register of  
25 deeds may require the person filing the mortgage to state the amount of the  
26 debt or obligation owed before computation of interest.

27 (d) No registration fee whatsoever shall be paid, collected or required  
28 for or on: (1) Any mortgage or other instrument given solely for the  
29 purpose of correcting or perfecting a previously recorded mortgage or  
30 other instrument; (2) any mortgage or other instrument given for the  
31 purpose of providing additional security for the same indebtedness, where  
32 the registration fee herein provided for has been paid on the original  
33 mortgage or instrument; (3) any mortgage or other instrument upon that  
34 portion of the consideration stated in the mortgage tendered for filing  
35 which is verified by affidavit to be principal indebtedness covered or  
36 included in a previously recorded mortgage or other instrument with the  
37 same lender or their assigns upon which the registration fee herein  
38 provided for has been paid; (4) any lien, indenture, mortgage, bond or  
39 other instrument or encumbrance nor for the note or other promise to pay  
40 thereby secured, all as may be assigned, continued, transferred, reissued or  
41 otherwise changed by reason of, incident to or having to do with the  
42 migration to this state of any corporation, by merger or consolidation with  
43 a domestic corporation as survivor, or by other means, where the original

1 secured transaction, for which the registration fee has once been paid, is  
2 thereby continued or otherwise acknowledged or validated; (5) any  
3 mortgage or other instrument given in the form of an affidavit of equitable  
4 interest solely for the purpose of providing notification by the purchaser of  
5 real property of the purchaser's interest therein; (6) any mortgage in which  
6 a certified development corporation certified by the United States small  
7 business administration participates pursuant to its community economic  
8 development program; (7) any mortgage or other instrument given for the  
9 sole purpose of changing the trustee; or (8) any mortgage for which the  
10 registration fee is otherwise not required by law.

11 (e) The register of deeds shall receive no additional fees or salary by  
12 reason of the receipt of fees as herein provided. After the payment of the  
13 registration fees as aforesaid the mortgage and the note thereby secured  
14 shall not otherwise be taxable.

15 *New Sec. 3. (a) On January 1, 2015, there is hereby created in*  
16 *each county a county clerk technology fund.*

17 *(b) Upon receipt thereof, the county treasurer shall credit to the*  
18 *county clerk technology fund of the county all moneys attributable to the*  
19 *fees collected pursuant to subsection (b) of K.S.A. 28-115, and*  
20 *amendments thereto.*

21 *(c) Moneys in the county clerk technology fund shall be used by the*  
22 *county clerk to acquire equipment and technological services for the*  
23 *storing, recording, archiving, retrieving, maintaining and handling of*  
24 *data recorded, stored or generated in the office of the county clerk.*

25 *(d) Moneys in such fund shall not be subject to the provisions of*  
26 *K.S.A. 79-2925 through 79-2937, and amendments thereto. In making*  
27 *the budget of the county, the amounts credited to, and the amount on*  
28 *hand in, such special fund and the amount expended from such fund*  
29 *shall be shown on the budget for the information of the taxpayers of the*  
30 *county. Any action taken by the county clerk under this subsection shall*  
31 *be in accordance with K.S.A. 19-302, and amendments thereto.*

32 *(e) Moneys in such fund may be invested in accordance with the*  
33 *provisions of K.S.A. 10-131, and amendments thereto, with interest*  
34 *thereon credited to such fund.*

35 *(f) The fund shall be administered by the county treasurer who*  
36 *shall pay out moneys from the fund upon orders signed by the county*  
37 *clerk.*

38 *(g) At the end of any calendar year, if the balance in such fund*  
39 *exceeds \$50,000 and the county clerk indicates that such amount in*  
40 *excess of \$50,000 shall not be needed and is not designated for*  
41 *technology, the county commission may authorize the transfer and use*  
42 *of such excess moneys by other county offices for equipment or*  
43 *technological services relating to the land or property records filed or*

1 *maintained by the county.*

2 *(h) If a charter form of government is adopted and implemented*  
3 *pursuant to K.S.A. 19-2680 et seq., and amendments thereto, the*  
4 *provisions of this section shall apply to the official, department or office*  
5 *which performs the duties and functions prescribed for the office of the*  
6 *county clerk.*

7 ~~Sec.-3:~~ 4. K.S.A. 79-3102 and K.S.A. 2013 Supp. 28-115 are hereby  
8 repealed.

9 ~~Sec.-4:~~ 5. On January 1, 2015, K.S.A. 79-3107b is hereby repealed.

10 ~~Sec.-5:~~ 6. On January 1, 2019, K.S.A. 79-3101, 79-3102, as amended  
11 by section 2 of 2014 Substitute for Senate Bill No. 298, 79-3103, 79-  
12 3104, 79-3105, 79-3106, 79-3107, 79-3107a and K.S.A. 2013 Supp. 79-  
13 3107c are hereby repealed.

14 ~~Sec.-6:~~ 7. This act shall take effect and be in force from and after its  
15 publication in the statute book.