

February 15, 2012

The Honorable Tim Owens, Chairperson
Senate Committee on Judiciary
Statehouse, Room 559-S
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Fiscal Note for SB 396 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 396 is respectfully submitted to your committee.

SB 396 would provide adjacent landowners an absolute right to have their land laterally supported by the soil of their neighbor and would create a civil cause of action in cases of disturbance of that support. Proof that the disturbance was a direct cause of injury to the adjoining land, building, or structure would be all that was necessary for recovery of damages.

The bill also includes provisions regarding party walls, which are defined as walls on a lot line owned in common by two neighbors. Prior to making any change to the party wall or taking any action that could affect a party wall or its lateral support, the person planning to take the action would be required to provide the owners of the property abutting the party wall notice by certified mail at least ten days prior to the action. The bill also contains further provisions regarding violations and damages.

Passage of SB 396 has the potential for increasing litigation in the courts because of the new violations created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases or appeals that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with SB 396 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Mary Rinehart, Judiciary