

February 17, 2014

The Honorable Lance Kinzer, Chairperson
House Committee on Judiciary
Statehouse, Room 165-W
Topeka, Kansas 66612

Dear Representative Kinzer:

SUBJECT: Fiscal Note for HB 2569 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2569 is respectfully submitted to your committee.

HB 2569 would amend statutory provisions governing the process by which a district court determines the validity of a lien placed on real or personal property, as well as add new sections concerning liens filed against the property of public officials.

Under current law, a district court may set aside an invalid lien or claim, and in doing so, may order the filing officer to nullify the instrument that created the lien or claim. HB 2569 would add that, if the court orders that the lien or claim be set aside, the court must also issue an order prohibiting the person who filed the lien or claim from filing any future lien or claim without approval of the court. The bill would further require that, upon receipt of the court's order, the Register of Deeds or the Secretary of State must not accept any further liens or claims from the person unless accompanied by a court order.

The bill would also create two new provisions relating to liens filed against the real or personal property of a public official. First, public officials would be entitled to submit a written request to be notified of any lien or claim filed on their real property. The written request would be made to the Register of Deeds of the county in which the property is located and with the Secretary of State. When the written request has been submitted, the office receiving a lien or claim on the official's property must notify the official within three business days of the filing.

HB 2569 would also make it unlawful for any person to file a lien or claim against the real or personal property of a public official when the person knows or reasonably should know that the lien or claim is false. A violation of this statute would be a severity level 8, nonperson felony. The bill defines "public official" as any person who is a public officer, candidate for public office, or public employee.

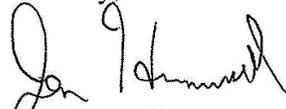
Estimated State Fiscal Effect				
	FY 2014 SGF	FY 2014 All Funds	FY 2015 SGF	FY 2015 All Funds
Revenue	--	--	--	--
Expenditure	\$54,000	\$54,000	--	--
FTE Pos.	--	--	--	--

Because passage of HB 2569 would create a new crime, the Office of Judicial Administration states that the number of cases filed in district courts and the number of appeals relating to liens placed on real or personal property of public officials may increase. This would increase the time spent by district and appellate court judicial and nonjudicial personnel in processing, researching, and hearing cases. In addition, because the new crime would be a severity level 8, nonperson felony, persons convicted of this crime who are sentenced to probation would likely be supervised by court services officers. While the Office anticipates that there would be a negligible number of violations, until the courts have had an opportunity to operate under the provisions of the bill, an accurate estimate of the fiscal effect on the Judicial Branch cannot be given.

According to the Kansas Sentencing Commission, passage of HB 2569 would cause the workload of the journal entry to increase. In addition, passage of the bill would have an effect on the probation population and potential prison admission and bed space needs when probationers violate the conditions of their parole and are revoked to prison. However, the Commission cannot quantify the effect because it has no data upon which to base an estimate.

The Kansas Secretary of State indicates that, at a minimum, 360 information technology hours, at a cost of \$54,000 from the State General Fund, would be needed to code and implement an electronic system to screen each of the approximately 100,000 financing statements received by the Secretary of State annually for fraudulent creditors as defined by the bill. The changes would need to be made to the agency's in-house system, its online system, and its XML filing system. In addition, the agency states that it is possible that a new full time information technology position and/or filing specialist would be needed to verify that the filings received were not submitted by a fraudulent creditor. The Secretary of State expects that each of the various counties would face the same costs upon passage of HB 2569 as the agency. Information on the possible fiscal effect of passage of HB 2569 was not available from the Kansas Association of Counties. Any fiscal effect associated with HB 2569 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,



Jon Hummell,

Interim Director of the Budget

cc: Melissa Wangemann, KAC
Desiree Taliaferro, Secretary of State's Office
Mary Rinehart, Judiciary