

THE KANSAS ABTRACTER

The Official Publication of The Kansas Land Title Association

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KLTA Kalendar

KLTA Annual Convention

August 8-10, 2002
Capitol Plaza Hotel
Topeka, Kansas

KLTA Continuing Education

(4 hours)
August 9, 2002
Capitol Plaza Hotel
Topeka, Kansas

ALTA Annual Convention

October 16-19, 2002
The Breakers Hotel
Palm Beach, Florida

KLTA Title School

February 5-7, 2003
Marriott Hotel
Wichita, Kansas

KLTA Continuing Education

(4 hours)
February 6, 2003
Marriott Hotel
Wichita, Kansas

ALTA Federal Conference

April 13-15, 2003
Washington, D.C.

KLTA Annual Convention

August 21-23, 2003
Spring Hill Suites
Lawrence, Kansas

KLTA Continuing Education

(4 hours)
August 22, 2003
Spring Hill Suites
Lawrence, Kansas

ALTA Annual Convention

October 22-25, 2003
Arizona Biltmore Resort and Spa
Phoenix, Arizona

KLTA Title School

February 4-6, 2004
Marriott Hotel
Wichita, Kansas

KLTA Continuing Education

(4 hours)
February 5, 2004
Marriott Hotel
Wichita, Kansas

ALTA Federal Conference

April 19-21, 2004
Washington, D.C.

ALTA Annual Convention

October 6-9, 2004
The Westin Copley Place
Boston, Massachusetts

ALTA Annual Convention

October 6-9, 2005
New York Marriott Marquis
New York, New York

KLTA Title Schools

Marriott Hotel
Wichita, Kansas
February 9-11, 2005
February 8-10, 2006
February 7-9, 2007

KLTA Continuing Education

Marriott Hotel
Wichita, Kansas
February 10, 2005
February 9, 2006
February 8, 2007

Theresa Frazier Resigns

On May 30, 2002 Theresa Frazier resigned as Third District Chairperson. Theresa and her family are moving to Oklahoma. We extend our heartfelt appreciation to Theresa for her hard work in KLTA activities and wish her well in her new endeavors.

KLTA PAC Silent Auction

Please help your association help you. We need your cash and/or items for the PAC auction. Your support is greatly appreciated. This is an opportunity to donate even if you are unable to attend the convention. This is an important election year and our legislative friends need our support. If you haven't already done so please send a donation TODAY.



In Memoriam

John Anderson

November 15, 2001

Garden City





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Summer 2002

STEVE KIMBALL, Editor

Nominating –

The four most recent living presidents and the current president of the association shall constitute the Nominating Committee for the nomination of officers at each annual convention. A majority of those members present at any Nominating Committee meeting shall constitute a quorum. **Said committee shall meet prior to the convention and submit a slate of candidates for office. Notification to the membership shall be made by publishing the slate either in the summer edition of the Kansas Abstracter or by mail. A list of candidates shall also be provided in the convention packets.** The Nominating Committee shall nominate one candidate for each of the following offices: President, President-Elect, Vice President and members of the Executive Committee of the association as set out in Article II, Section 3 (a) of these by-laws. The Nominating Committee's report shall be delivered at the time and place as directed by the President of the association. Provided, however, that in any event such report shall be delivered before the adjournment of the convention. Additional nominations may be accepted from any voting member of the association.

By-Law Change

The By-Laws Committee has been asked to make the following amendment to Article IV, Section 7 (Nominating) of the association by-laws. The intent is to allow for the general membership to be made aware of the nominations prior to the convention. No other changes are proposed. This change will be voted on at the 2002 convention in Topeka.

New DMV Form for Mobile Homes

The Kansas Department of Revenue, Division of Motor Vehicles has posted a new form to their web site for surrendering the title to a mobile home. They added an acknowledgment to the form to satisfy those parties who felt like it was necessary. Please make sure you obtain and use this NEW form and get all of the old forms out of your system.

www.ksrevenue.org/dmv/dmvforms

New Member

Heartland Title Company, Inc.
120 E. Park
Olathe, Kansas 66061
Phone: 913-393-2800
Fax: 913-393-0284
Email:
bevmcmillan@heartlandtitle.net
James C. Day, C.E.O.
Beverly McMillan

KLTA Blitz Mail

KLTA webmaster Randy Barbour now has the ability to mass email current title industry information to keep our membership better informed in a more timely manner. If you are not currently receiving emails and wish to be included please provide your email address to Randy or Linda Lea Voss.

www.klta.org

Be sure to visit our website on a regular basis as current information is posted on a regular basis.

MARK YOUR CALENDAR

KLTA Annual Convention

August 8-10

Capitol Plaza Hotel

Topeka, Kansas

REVISED 2002 LEGISLATIVE REPORT

Senate Bills:

143 – controlled business – Senate version of House Bill 2209 – carry over bill from 2001 – DIED

297 – would enact the Kansas uniform trust code - Signed by Governor

445 – amends 60-2418 – Chapter 61 judgment liens changed to Chapter 60 judgments may be filed in other counties where the judgment debtor owns real estate – passed Senate; House added lien provision dealing with grain in warehouses; sent back to Senate Judiciary Committee

486 (House Substitute for Senate Bill 486) – would not recognize common law marriages if either party is under 18 – Signed by Governor

564 – creates a register of deeds technology fund – adds \$2.00 to 1st page of each instrument of writing (includes deeds, mortgages), plus \$2.00 for each additional page of those documents, plus additional \$2.00 for filing assignments and releases, and increases to \$15.00 the fee for filing and releasing federal and state tax liens and materialman liens under KSA 58-201 – effective July 1, 2002.

NOTE: THIS LAW MAY NEED SOME INTERPRETATION AS TO THE NEW RECORDING FEE FOR ASSIGNMENTS AND RELEASES – THE REGISTER OF DEEDS MAY CHARGE AN ADDITIONAL \$2.00 PER PAGE FOR ASSIGNMENTS AND RELEASES --THEREFORE, IF THE RELEASE OR ASSIGNMENT IS MORE THAN 1 PAGE, THERE WOULD BE AN ADDITIONAL \$2.00 CHARGED FOR EACH ADDITIONAL PAGE.

House Bills:

2175 – similar provisions to SB original 445 – filing of judgment liens in other counties – effective July 1, 2002

2209 – controlled business – carry over bill from 2001 – no additional hearings – in House Insurance Committee –

- a. Chairman Tomlinson attempted to obtain an attorney's general opinion that would rule that controlled business law was unconstitutional as a result of federal Gramm-Leach-Bliley – later withdrew request
- b. concern about Senate Bill 388 being amended on House Floor to include provisions of HB 2209. In what proved to be an early test vote we were successful in halting SB 388. Sent back to committee, thereby forestalling efforts of realtors to offer controlled business amendment

2697 –amends 61-2910 – makes a transfer of a Chapter 61 case to a Chapter 60 case permissive – Signed by Governor

2698 – amends real estate valuation questionnaire form – no questionnaire required for transfers of title from a trust with no consideration, and for purposes of releasing an equitable lien on a previously recorded affidavit of equitable interest without additional consideration – signed by Governor – effective July 1, 2002.

2723 – manufactured housing bill – signed by Governor

2768 – amends farm tenancy termination law (58-2506) to establish a notification and termination deadline for pastureland – signed by Governor

2817 - would extend the time period for filing mechanics' liens (both contractor and subcontractor) to 180 days when the property is other than residential property – DIED

2835 – would create homeowner warranty act – DIED

2934 – would add term “refinancing” to escrow regulation law (40-1135 et seq.) passed in 1999 and would add \$500.00 penalty + attorney fees for failing to disburse funds within 20 days after demand to do so – hearing in House Insurance Committee on March 21, 2002 – DIED

NOTE: COPIES/STATUS OF BILLS MAY BE OBTAINED AT FOLLOWING WEB SITE: WWW.KSLEGISLATURE.ORG

Roy Worthington and John Peterson contributed to this report and also deserve a special thank you for their hard work and diligence in getting legislative information out to KLTA members during the legislative session.

District Meetings

District meetings were held on April 24 in Hutchinson and April 25 in Olathe. We had good turnouts at both locations. Thanks to our hosts Gary and Kathy Eggers in Hutchinson and Doug Simmons in Olathe.

KLTA PAC Raffle Winner

Darcy Domoney won the drawing and the KLTA Pac made \$750.00. A big thank you to Doug Simmons, Todd Lynch and the Overland Park Marriott for donating prizes.

Manufactured Home Change

In order for a manufactured home or mobile home to be considered real estate it must be affixed to a permanent foundation. If it has a certificate of title or is eligible to receive one, the certificate of title must be eliminated.

In order to eliminate the certificate of title an application must be made with the Kansas Department of Revenue, Division of Vehicles. The application (affidavit) must be signed by all the owners as well as all lien holders. The application must be accompanied with the existing certificate of title. Upon approval by the Kansas Department of Revenue the affidavit must be recorded with the Register of Deeds where the property is located. Upon recording, the certificate of title is eliminated and the home is considered real estate. Questions concerning this procedure should be directed to your underwriter.

Home, Mobile Home on the Range

Until recently many title people believed that once you removed the wheels, hitch and axles from a mobile/manufactured home, connected it to utilities and placed it on a permanent foundation, then it became real estate, especially if the county taxed it as real estate. This belief, however, was incorrect. In *Beneficial Finance Co. of Kansas, Inc. v. Schoroeder*, 12 Kansas. App. 2d 150, which is a 1987 case by the way, the Kansas Court of Appeals held that if the “home” has a certificate of title, then the only way a lien holder can perfect a security interest in that “home” is by listing the lien on the certificate of title! Therefore, a fixture filing, deed or mortgage filed against the real estate that the “home” sits upon would be subject to any lien listed on the certificate of title, even if the deed, mortgage or fixture filing was recorded before the lien was listed on the certificate of title! The case did not address ownership issues with regard to the “home”, but one could presume that an ownership interest listed on the certificate of title might pre-empt an ownership interest in the land upon which the “home” sits.

If the “home” has a certificate of title, then the rule from the *Beneficial* case applies, REGARDLESS, of how the “home” is affixed to the real estate. As a title agent you need to consider the rule when asked to issue a policy on a mobile/manufactured home. Every underwriter has different requirements regarding what you need to do in order to insure the mobile home as real estate. You must consult your underwriter regarding the specific requirements that have to be satisfied before you insure the home as real estate or issue the ALTA 7 Mobile Home Endorsement. The Alta 7 endorsement makes an affirmative statement that the land described in the policy includes the “manufactured housing unit” located on the land. Generally, however, most underwriters will require you to determine that the home is permanently affixed, to take possession of the original certificate of title and verify that all liens and ownership interests listed thereon have been taken care of.

With the potential for liens listed on

the certificate of title of the “home” to have priority over ownership and mortgage interests filed against the real estate, title companies began to not insure mobile/manufactured home transactions. The reluctance of title companies to insure these types of transactions caused problems for lenders and consumers, enter House Bill No. 2723. This bill allows for the cancellation of the certificate of title and elimination of the risk by affirmatively stating that once the home has been permanently affixed to the land and the certificate of title has been cancelled, then the “home” shall be considered real estate. Keep in mind that the bill requires the “home” to be permanently affixed. Mere cancellation of the certificate of title, without the “home” being permanently affixed would not make the “home” part of the real estate.

Pursuant to the bill the certificate of title can be cancelled by taking the following steps, to wit:

1. Permanently affix the “home” to the real estate;
2. Obtain an affidavit signed by all of the owners and lien holders having an interest in the “home”; Note the form of affidavit will be provided by the state. The specific information to be included in the affidavit is listed in the bill under section b(1)(A-G); The information required in the form as listed in the bill is as follows, to wit:
 - a. The date;
 - b. The names of all owners of record of the mobile/manufactured home;
 - c. The legal description of the real property where the mobile/manufactured home is located;
 - d. A description of the manufactured/mobile home, including model year, make, width, length and identification number;
 - e. The names of all parties holding a security interest, lien or encumbrance in the mobile/manufactured home;
 - f. A statement that the owner or one of the owners of the mobile/manufactured home owns the real property where the “home” is or will be located;
 - g. The name and address of an

owner, lending agency or other entity to which the approved application may be delivered;

3. Turning in the certificate of title or statement of origin with the affidavit;
4. Getting a release of any security interests in the “home”;
5. Payment of all fees and taxes or proof thereof;
6. Providing any other information required by the division.

The form of affidavit and information on how to cancel the title can be downloaded from

www.ksrevenue.org/pdf/tr63.pdf.
The law is already effective as of May 2002 so enjoy!

NOTE: Credit for information contained in this handout should be given to Jeff Amrein at Capital Title in Topeka, Kansas and Kellee Dunn Walters at Chicago Title in Kansas City, Missouri.

Special thanks to the KLTA PAC Raffle Contributors

Those contributing \$15 or more:

**Hannaford Abstract and Title
Coffey County Land Title
Pratt County Abstract
Mary Rogge
Buzz Burton
Heartland Title
Wendell Winkler
First American – Security
Title/Wichita
Regier Title
Centennial Abstract
Rice County Abstract
Pottawatomie County Abstract
Collier Abstract
Hutch Title
Wyandotte Title
Land Home Title**

**And numerous others who
donated \$5.00.**

**ALL contributions were greatly
appreciated**