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Legislature.

Nov. 25, 2013

Nov. 23 — Since 1925, the rule in Kansas has been if you buy property on a mortgage, you pay to have it recorded by the county. That could change in the next session of the Legislature.

Two of the state's most powerful business groups — Realtors and bankers — are targeting the state's mortgage registration fee for repeal, saying it discriminates against people who need to borrow money to buy homes or business property.

The bankers and Realtors are opposed by county officials who say without the registration fee, they will have to spread the cost to every property taxpayer in their jurisdiction, including home- and business-owners who have already paid their fee.

If the fee goes away and isn't replaced, it's estimated that counties across the state will lose roughly \$47 million a year in revenue — about \$6 million to \$8 million of that in Sedgwick County.

House Speaker Ray Merrick, who sets the voting agenda for the House of Representatives, says he doesn't have a problem with that.

On Friday, Merrick, R-Stilwell, recounted a conversation he had with an official from his home county, Johnson County.

“Our county chairman said that's going to cost them about \$16 million and how dare you do that to us?” Merrick said. “So I said 'Why do you collect that tax?' His answer was, 'Because we need the money.' Uh, wrong answer.

“So he said, 'Well, you're going to force me to raise property taxes.' And I said, 'Well, this will be one time you have to step out and vote for a tax increase instead of hiding

behind the escalation in valuation.' “

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He noted that the mortgage fee only is paid when a new mortgage is created.

“So by eliminating the mortgage registration fee on that kind of activity, you're passing the responsibility for that revenue on to people who don't have a mortgage, or who have already paid a mortgage registration fee, so they're paying twice,” he said. “I mean, it's a fairness thing.”

The proponents of doing away with the fee say fairness is on their side.

They say courts have agreed with them that the registration fee is actually a tax because nearly all the amount charged goes to the county's general fund and does not reflect the actual cost of recording the document.

The fee is based on the amount of money borrowed in the mortgage, which doesn't make sense because it costs the county the same to process a \$500,000 mortgage as it does a \$100,000 mortgage, said Doug Wareham, vice president for government relations with the Kansas Bankers Association.

He said the registration fee discriminates against the middle class and in favor of the wealthy.

“We're bringing this forth because our banks are tired of our customers (borrowers) being saddled with this tax while cash buyers are not being saddled with any tax,” he said. “We do not want to be adversarial with local government, (but) because of this fee, we're really hampering people who want to buy real estate.”

Wareham said new regulations enacted in response to the subprime mortgage crisis that began in late 2008 mean that buyers are having to put up bigger down payments than in the past, straining budgets especially for young people trying to buy a first home or start a business.

“Anything we can do to reduce the upfront cost (of a mortgage) is a positive,”

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If you're thinking about moving into a state, and you know that the mortgage registration fee is going to be eliminated and your mill levy's going to go up, are you going to want to move in? Knowing that your mill levy is going to go up the minute you move in and you're going to have to pay it for a long time,” he said.

### Comparing costs

The Kansas mortgage registration fee is 26 cents on every \$100 borrowed. Of that, 25 cents goes to the county and a penny goes to the Heritage Trust Fund, which provides matching funds to preserve historic buildings.

Both sides in the debate have created comparisons with the costs in other states to boost their cases.

Meek said that while neighboring states don't have a registration fee, most charge a “transfer tax” any time a property changes hands that amounts to about the same thing.

By his accounting, the total price of registering a \$100,000 mortgage is about \$676 in Kansas, compared to \$342 in Missouri, \$678 in Iowa, \$845 in Nebraska and \$1,532 in Colorado communities that charge a local tax on property transfers.

The Kansas Association of Realtors offers a very different set of numbers.

By its count, Kansas comes in the highest at \$336, with Nebraska at \$335, Iowa \$254, Missouri \$120 and Colorado \$107.

Luke Bell, vice president of government affairs for the Realtors association, said Meek's numbers are flawed because he calculated them based on a 100-page mortgage when most mortgages are about 12 to 20 pages. He said that artificially increased the cost because other states charge more per page than Kansas to record a mortgage.

In addition, he said Meek's numbers for Colorado really apply to only a few resort

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groups in the statehouse.

Both lobby extensively during the sessions and both have substantial political action committees making campaign donations in the off-season.

In 2013, lobbyists for the bankers bought meals for at least 113 of the 165 representatives and senators, according to figures obtained from the state Governmental Ethics Commission.

Overall, their lobbying effort included 280 separate instances where they picked up the check for lawmakers, at a cost of \$27,574. Included in that were eight reception-style events where they didn't have to report who attended.

The Realtors association reported 69 meals involving 62 legislators, including three large group lunches and one reception event, for a cost of \$3,454. Together, its lobbying spending totaled slightly more than \$31,000.

Counties also lobbied the Legislature, but with not near the same intensity.

All of the states' counties, the Kansas Association of Counties and various county officials organizations combined accounted for 146 meals with 80 lawmakers identified. Overall, they spent \$18,284 feeding lawmakers, including 10 group events that cost \$15,705.

The bankers and Realtors associations both have affiliated political action committees that were highly active in the 2012 election cycle.

The Realtors PAC gave \$88,000 to 91 current members of the 125-member House; and \$40,900 to 30 of the 40 sitting senators, according to the Ethics Commission records. Bankers contributed \$78,900 to 116 current House members and \$57,550 to 38 of the current senators.

Together the two associations accounted for \$265,350 in PAC contributions.

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mortgage registration fee.

He said Johnson County Realtors have split from the state group on the issue and spoken against eliminating the fee — and he thinks similar fissures will form in the Legislature when everybody presents their cases.

“The counties just need to share the specific information and impact on local taxpayers,” he said.

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