

March 4, 2013

The Honorable Marc Rhoades, Chairperson
House Committee on Appropriations
Statehouse, Room 111-N
Topeka, Kansas 66612

Dear Representative Rhoades:

SUBJECT: Fiscal Note for HB 2360 by House Committee on Veterans, Military and
Homeland Security

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2360 is respectfully submitted to your committee.

HB 2360 would amend existing law relating to stays of mortgage foreclosure proceedings against active-duty service members and their dependents. In a judicial foreclosure proceeding against an active-duty service member or the member's dependent, the plaintiff would be required to file an affidavit with the court stating whether the plaintiff was able to determine the defendant's service member or dependent status. If the plaintiff determines that the defendant is a service member or dependent thereof, the court may not enter a default judgment against the defendant prior to appointing an attorney for the defendant. The bill would also require the court to stay all foreclosure proceedings until 180 days after release for military service.

Submitting a false affidavit would be punishable as a severity level ten nonperson felony and a civil fine not to exceed \$10,000. The Attorney General may file an action in district court to enforce the provisions of the bill. Any recovery would be split between the Service Member Benefit Fund of the Kansas Commission on Veterans Affairs (90.0 percent) and the Court Cost Fund of the Office of the Attorney General (10.0 percent).

The Office of Judicial Administration reports that passage of HB 2360 may generate additional penalties and increase the amount of work required in mortgage foreclosure proceedings filed against service members or their dependents in district courts. It would increase the time spent by district court judicial and non-judicial personnel in processing, researching and hearing cases. Until the courts have had an opportunity to operate under the provisions of the bill, and accurate estimate of the fiscal effect cannot be given.

According to the Attorney General, the bill is not expected to markedly increase the agency's workload based upon the low number of complaints received in this area. In addition, the 10.0 percent recovered from an action would help offset any expenditure necessary to

The Honorable Marc Rhoades, Chairperson

March 4, 2013

Page 2—HB 2360

enforce the bill. Also, the Kansas Commission on Veterans Affairs would benefit from 90.0 percent of the proceeds recovered from an action; however, that amount cannot be determined. Any fiscal effect associated with HB 2360 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

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

cc: Mary Rinehart, Judiciary
Kafer Peele, Veterans Affairs
Willie Prescott, Attorney General's Office