



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 25, 1985

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 85- 23

Jim Pringle
Sumner County Attorney
Sumner County Courthouse
Wellington, Kansas 67152

Re: Taxation--Mortgage Registration--Mortgage Registration
Fee

Synopsis: The mortgage registration fee is based upon the amount of the debt or obligation involved in the transaction. It is not based upon the value of the property given to secure the debt or obligation. Cited herein: K.S.A. 79-3102.

* * *

Dear Mr. Pringle:

You seek our opinion on whether the mortgage registration fee imposed under K.S.A. 79-3102 is based upon the amount of the debt involved in the transaction or whether the fee is based upon that portion of the debt which is fully secured by a lien on real property. By way of illustration, you ask us to assume that a bank extends credit in the amount of \$650,000 and secures the obligation by taking a mortgage on real property valued at \$280,000. Your question is whether the bank must pay a mortgage registration fee based upon the total amount of the loan (\$650,000), or whether the bank should pay a fee based upon only the amount of the loan that is secured fully by real property (\$280,000).

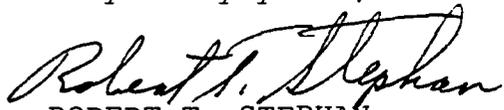
In Union Pac. Rld. Co. v. Stratemeyer, 119 Kan. 8 (1925), the court stated: "The amount of registration fee required by the

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new statute (L. 1925, ch. 273) [now K.S.A. 79-3102] is 25 cents for each \$100 of face value of the debt secured. . . . [T]he amount of registration fee is determined entirely by the sum secured, and is not at all affected by the value of the property constituting the security. . . . (Emphasis added.) Id. at 9.

Based upon this unequivocal statement of the court, it is our opinion that the mortgage registration fee is based upon the amount of the debt or obligation involved in the transaction and is not affected at all by the value of the property given to secure the debt or obligation.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Rodney J. Bieker
Assistant Attorney General

RTS:JSS:RJB:jm