

KANSAS INDEPENDENT OIL AND GAS ASSOCIATION
KIOGA

My name is David Nickel. I am an attorney at law. I am here on behalf of the Kansas Independent Oil and Gas Association (KIOGA) regarding the proposed amendments to Senate Bill 331.

KIOGA generally supports legislation which aids in the maintenance of clean record title pertaining to mineral and royalty interests, through the recording of proper instruments in the offices of the Register of Deeds in Kansas. However, after brief analysis of the proposed amendments to Senate Bill 331, KIOGA believes that these proposed amendments may be problematic.

Indeed, KIOGA particularly notes that the language in Section 1 could be interpreted by Kansas courts to void deeds which contain particular legal descriptions or contain sufficient reference to prior recorded instruments so that a title examiner can locate all interests being so conveyed by a grantor, merely because the deed may contain a recital or a provision (intended only to be binding between the grantor and grantee) that all of the grantor's interest is being conveyed to the grantee. There are times when clauses known as "catch-all" or "mother hubbard" clauses are inserted in instruments for legitimate purposes and are indeed recognized as binding under the law. The provision to void all deeds with "catch-all" clauses may invite more uncertainty and litigation in the Kansas courts than would occur under the current status of the law. Moreover, not all counties in Kansas use a tract or numerical index. Some counties use grantor/grantee indexes to record instruments filed in the office of the Register of Deeds. Finally, this provision is proposed to be retroactively applied to January 1, 2000. People and entities that deal in commerce need certainty as to how the law will affect their contracts and dealings. To change the application of the law retroactively would be to upset those expectations.

With respect to Section 2, the parties to a mineral or royalty deed already have the legal right to seek redress, if the mineral or royalty deed inaccurately, incorrectly or insufficiently describes the property intended to be conveyed. KIOGA does not believe it necessary to affect these legal rights

Thank you for considering my thoughts on the proposed amendments to Senate Bill 331.