

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 31, 2005 LB 119

every one of your counties, in the county where the real estate is located. So it says that the insurer's alternatives with respect to recording are the following. You can file for record in the office of the recorder a request for a copy of any notice of default or sale. And that seems appropriate. And then it says, otherwise arranges with a recorder of any county in which the real estate is located, otherwise arranges to be advised in the case of a filing for record of any notice of default or a sale in respect to any obligation. And then it also states the obvious, that is, if you're entitled to it under applicable law, you would get the notice of default on a prior obligation. These notices are very important because we're talking here about second mortgages. So they would be situations in which there are first mortgages existing, and if that first mortgage is defaulted upon, it's very important. Now, maybe the reason that this is so loose is that it's seen as a benefit to the holder of the second mortgage, and it's not seen as necessary to protect them. But nonetheless, the provision I'm talking to makes a requirement...or arguably, suggests that the recorder of...the register of deeds can make some alternative procedure other than what I've described, which are the normal procedures. It says that the insurer can otherwise arrange with the recorder of any county in which the real estate is located to be advised in case of the filing for record of any notice of default or sale with respect to any obligation secured. What I don't want to happen, and what I would think you would want not to happen, is to have a variety of arrangements out there that individual register of deeds in different counties may see fit to make, and then have those individual register of deeds go out of office, new ones come in, they may or may not know about some sort of specific arrangement with some insurer about giving notice of default. I mean, normally this kind of thing is not the obligation of the register of deeds. Their obligation is simply to record a matter. And if you want to know what's on a piece of property, you come in and look at their records. So if we're envisioning that one or more register of deeds would have the option of creating some sort of record that's peculiar to a particular loan or to a particular lender, and if there is some obligation inferred on the part of the register of deeds, that would not be a good thing, in my opinion. Now, having said that, I would invite Senator Mines or others to suggest what may