

Approved January 29, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~p.m.~~ on January 28, 1986 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Pete McGill, Kansas Independent Bankers Association
James Warren, Kansas Independent Bankers Association
Jim Maag, Kansas Bankers Association
Eugene T. Barrett, Jr., State Bank Commissioner
Jim Shumaker, FDIC

The minutes of January 23 were approved.

The Chairman began the hearing on SB 432, enacting the community resources security act, which he had introduced at the request of some bankers.

Pete McGill, Kansas Independent Bankers Association, presented testimony in support of the bill. (See Attachment I).

Mr. McGill introduced Jim Warren of the Kansas Independent Bankers Association to give further testimony in support of SB 432. (See Attachment II).

Sen. Gannon expressed his concern that it would be possible that the contiguous bank assuming the closed bank might be a "weak" bank. Mr. Warren felt that there would surely be capable banks available. The Chairman added that the contiguous bank would need the authorization of the Bank Commissioner.

Sen. Werts questioned the enforceability of the stipulation that the acquiring bank continue to operate five years after taking over if the bank began to experience a loss of money before the five year period had passed. Mr. Warren answered that this is a legal question which he could not answer.

Sen. Kerr asked why the bill is limited to one bank towns only. Mr. Warren replied that allowing banks to branch in two bank towns would be considered as unfair competition.

Sen. Karr asked in regard to the five year limitation if the regulators would supercede state law, and Mr. Warren said the regulators would have jurisdiction.

Jim Maag, Kansas Bankers Association, followed with testimony on SB 432. (See Attachment III.)

In regard to the population limitation of 750, the Chairman asked Mr. Maag if he would agree that the larger the community, the better the chance there would be for applications for new charters being made. Mr. Maag agreed that the size of the town is one factor in applications being made but not necessarily the only factor. The Chairman asked Mr. Maag if the Kansas Banking Association has changed its position seemingly in opposition to statewide branching last session. Mr. Maag replied that the KBA did not have a position on statewide branching last year and is interested in maintaining a large bidding pool because the pool is diminishing as the number of bank failures increase.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on January 28, 1986

Sen. Burke asked Mr. Maag if he would be willing to compromise by merging the concepts of the bill in the House concerning the same subject and the concepts of SB 432 with preference to the Chairman's bill. Mr. Maag said that if there is room for compromise, he would consider it.

Eugene Barrett, Bank Commissioner, followed with his testimony which included some recommendations for this proposed legislation. (See Attachment IV). He noted that he sees this as a people's bill and also that a small amount of branch banking will lead to more branch banking.

The Chairman asked Mr. Barrett if his response would be different if asked for an opening of a branch rather than the opening of a new bank, and Mr. Barrett answered that it would be. The Chairman asked further if Mr. Barrett's department would try to establish a new charter rather than a branch in the case of bank failures. Mr. Barrett said that this is not the state's decision. It would be up to the FDIC where all bids must be approved.

Mr. Barrett introduced Jim Shumaker of the FDIC to explain the FDIC's role in a failed bank situation. Mr. Shumaker said that even prior to being named receiver, the FDIC attempts to contact individuals who have the ability to obtain a charter overnight. Prospective bidders generally are required to be twice the size of the bank being assumed. Also, in the purchase and assumption transaction, the FDIC attempts to transfer only good quality assets to the assuming bank. The FDIC indemnifies the assuming bank from any action of the previous bank and establishes charters overnight. The most significant question in these cases is the viability or continued viability of the bank. He informed the committee that the number of prospective bidders in Western Kansas is small.

Mr. Shumaker briefly noted his specific concerns with SB 432 as follows: Section 2 (a) and 2 (b) allowing detachment facilities applies to only one third of the banks in Kansas; Section 2 (c) limits the number of branch banks and depletes further the number of bidders; 6 (d) (2) limits overnight transactions because it requires the approval of the banking board; and, finally, the implementation of Section 2 may be the direct reverse of what was intended. There being no further time, Mr. Shumaker concluded his testimony. He will furnish the committee with copies of his written testimony in a few days. (See Attachment IV-A).

The Chairman informed the committee that a letter had been received from the League of Savings Institutions supporting SB 432 (See Attachment V.) and that the Farm Bureau has also expressed support of the bill.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
1-28-86	J. S. Anderson	Carbondale	Ks. Ind. Bnkrs. Assn.
"	M. E. Parks	"	"
"	Chip Wheelen	Topeka	"
"	Pete McGill	"	"
"	Jim Warren	Galva	"
"	Linda McGill	Topeka	"
"	Harold Stoner	Topeka	KBP
"	James Shumaker	Kansas City	FDIC
"	Harold P. Orr	Heaton	self ???
"	Michael A. Kitzman	Auburn	State Banking Dept.
✓	Tom Barrett	Topeka	✓
"	Charles M. D'Agostino	Topeka	" "
"	Jim Munn	"	KBA
"	Lynda Ann Dalst	"	Cong. Jim Slattery
"	Patricia Hammet	Bodge City	Ks Credit Union Lg.
"	Phil Anderson	Topeka	BUDGET DIV.
"	Larry Eisenhower	Wichita	KS Credit Union League
"	Jerel Wright	Topeka	KCUKA

SENATE BILL 432

prepared for the

Senate Committee on
Financial Institutions & Insurance

by the

Kansas Independent Bankers Association

1/28/86 Sen. FI+I
Attachment I



P.O. Box 389 • Carbondale, Kansas 66414 • 913/564-9287

January 28, 1986

Dear Senator:

The Kansas Independent Bankers Association represents small and medium community banks throughout the state. It is natural then that we, as an organization, have an interest in preserving banking service in communities where the sole means of financial service is lost.

What can be done for a small community that loses its only bank without any hope of finding someone willing to charter a new bank in town? Senate Bill 432, the Community Resources Security Act, addresses that problem in a realistic way. With this legislation, small rural communities across the state have hopes of continued banking services by means of a detached facility, if their sole bank should fail and is not rechartered.

The bank establishing such a facility would be in the same geographic area and thus familiar with economic conditions and situations of the region. Such local control is apt to be more long lasting.

To be certain, there is no magic cure-all for the problem. Even multi-banking, branching, merger and assumption laws in Nebraska and Oklahoma could not prevent seven banks in one bank towns from closing permanently without replacement. Still, to provide the opportunity to establish a detached facility under certain circumstances in lieu of a new bank charter will ultimately make it more cost effective and cost feasible for possible buyers.

Thus in the interest of small communities who lose their only bank in bank failure, SB 432 offers a chance at continued financial service for individuals, small business and agriculture the hub of Kansas communities across the state.

Cordially,

J. Sue Anderson
Executive Director

KIBA POSITION PAPER

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OVERVIEW

Over the last two years, Kansas has experienced 20 bank failures, a post depression high. In all but three cases, the assets of the failed banks were purchased and a newly chartered bank replaced the failed institution or there was another bank in town to continue banking services to that community.

However, in three exceptions, the town's only bank failed and an acceptable bidder for the bank's assets could not be found. The result was the loss of banking service in those communities. All of those communities had a population of 450 or less.

The Kansas Bank Commissioner has stressed that during these troubled economic times, especially in agricultural areas, it is becoming increasingly difficult to find buyers for a failed bank's assets and liabilities. The public, particularly in the communities where the only bank failed, has stressed the desire to continue some type of banking service for those situations.

Senate Bill 432 is an alternative to the permanent closing of banking services in one bank communities of 750 or less in population. Currently 62% of all one bank towns in Kansas have a population of 750 or less. It is designed to address those areas least likely to be able to recharter a failed bank by allowing a bank within the geographic proximity to establish a detached facility in the town.

Additionally, SB 432 also stresses the importance of keeping the ownership of such facilities within the immediate or contiguous areas. That is, buyers of a failed bank's assets who want to establish a detached facility must come from 1) The same county as the failed bank 2) An immediate contiguous county or 3) If there are not 10 bank bidders by combining #1 and #2 - allowing bidders from the next tier of contiguous counties. The concept is designed with the realization that in some parts of the state, more sparsely populated, a larger distance will have to be included to find bidders. Essentially, it is believed that SB 432 will open the door for many more interested buyers of a failed banks assets and liabilities because a detached facility is cheaper to operate than a full service bank and thus would lower the bid amounts needed.

Nevertheless it should be stressed, SB 432 cannot prevent bank failures nor can it assure a buyer for the assets of every failed bank. No legislation can. But we believe the bill to be a good answer for a disturbing problem.

Outline of S.B. 432

NAME: The Community Resources Security Act

PURPOSE: To provide continued banking services, by means of a detached facility, for communities whose sole bank has failed and on which no bids are offered to recharter it as a full service bank. It is not intended to further the market expansion of existing banks.

DETAILS:

- I. This bill gives the appointed receiver of a failed bank permission to accept bids to establish a detached facility to replace the failed bank if:
 - A. A purchaser for rechartering the failed bank cannot be found.
 - B. The failed bank is the only bank located in the town and that town has a population of 750 or less.
 - D. The purchasing bank, for the purpose of establishing a detached facility to replace the failed bank, is in the same county as the failed bank or in an immediately contiguous county.
 1. Note: If there are less than 10 banks in the home county and immediately contiguous counties then the purchaser may be located in a county in the next tier of contiguous counties. This is similar to Missouri law.
 - E. The purchasing bank is not part of a holding company owning more than two bank affiliates.
 - II. Banks operating a detached facility to replace a failed bank must operate it for at least 5 years.
 - A. Exception - the facility may be sold to investors wanting to charter a new bank in that location.
- Comment - This prevents changes of ownership and instability in banking services to the community while still allowing the community to have an opportunity for a chartered bank.

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January 28, 1986

- III. Detached facilities established to replace a failed bank do not count in the aggregate number of facilities per bank currently allowed by law.
 - A. KSA 9-1111 allows 3 detached facilities for each bank. The exception under this act makes the total limit 5, if two of the five are acquired under this legislation.
- IV. A sunset provision would terminate this legislation in 5 years.
 - A. This allows the legislature to re-evaluate the law in 1991 and if no longer needed, permit the law to lapse. If failed banking conditions still exist, the legislature can renew the law.

FACTS & INFORMATION

There are 324 one bank towns in Kansas.

62% of all one bank towns in Kansas have a population of 750 or less.

All banks in Kansas are surrounded by at least 10 banks in two tiers of contiguous counties.

There is no cure-all for finding enough bidders for failed banks. In Nebraska, Oklahoma, and California statewide branching and multibanking are allowed. Yet in each of these states there were failed banks in one bank towns that were closed permanently (that is not rechartered, merged or assumed).

1985 Failed Banks in One Bank Towns Which Were Neither Rechartered nor Reopened.

Town	Population
1. Dannebrog, Nebraska	356
2. Alexandria, Nebraska	255
3. Fairfield, Nebraska	543
4. Oak, Nebraska	79
5. Elba, Nebraska	218
6. Comstock, Nebraska	168
7. Terral, Oklahoma	604

QUESTIONS YOU MAY HAVE
ABOUT S. B. 432

1. What is the purpose of the bill?

The purpose of S.B. 432 is to protect a community's access to banking services when its sole bank has failed and is not rechartered. Because a detached facility is cheaper to establish and operate, bidders for this type of arrangement will be more prevalent.

2. How will qualified bidders be found and how are they chosen?

Currently, the F.D.I.C. and/or the State Banking Department have an approved "bidding list" that consists of investors (banks and others) who have notified regulators that they are interested in buying a bank. To this list of prospective bank buyers, the regulators apply their own requirements as to whether or not a prospect is eligible to submit a bid. The financial condition of the bidder, management capability, and experience are among the criteria applied.

3. The bill applies only to one bank towns of 750 or less in population. Why?

It is felt that towns over 750 population should have every opportunity for a fully chartered bank to be established in their community. Since 62% of all one bank towns have a population of 750 or less, this legislation covers a majority of Kansas banks in one bank towns.

4. Why does it apply only to one bank towns?

This legislation is intended to address the continuation of community banking service for one bank towns. If a bank were allowed to purchase a failed bank's assets to establish a detached facility and another bank were already established in that town, it would present unfair competition for the remaining capitalized bank(s) in that town.

5. What is geographic location of the bidder addressed in SB 432?

The closer bank ownership is to its deposits, the better service it can give to the source of those deposits. The home county/contiguous county concept coupled with the establishment of a detached facility to replace a failed bank give bank regulators additional tools to help them find continued banking service for the community whose bank has failed. A detached facility can be purchased for far less than a newly chartered bank, and this will allow more banks into the bidding process.

6. Why does the bill specify the number of years the detached facility must operate when replacing a failed bank ?

The Community Resources Security Act (SB 432) is meant to provide continued banking services for communities whose only bank has failed. By requiring a facility to operate for 5 years, this helps to assure continued operation so that a bank cannot buy the assets of a failed bank at a price considerable lower than what it would cost to recharter the bank then divest the entire operation within a year or two.

7. Will this bill prevent other Kansas communities from experiencing the loss of their only bank due to bank failure?

S.B. 432 will dramatically enhance the number of bidders available to assume failed bank assets. However, neither this legislation - nor any other - can stop Kansas banks from failing or assure a buyer of every failed bank's assets.

8. Why can this legislation create more bidders for failed banks?

To recharter a full service bank considerably more in capital, time, and expertise is required. Therefore, if the failed bank's assets are opened up to allow bidding as a detached facility, less initial capital is needed and because of that more banks in the area and banks of smaller size will also have an opportunity to enter the bidding process.

WHAT OTHERS ARE SAYING

American Banker Newspaper, January 10, 1986:

....."We remain convinced that a local-owned community bank can more effectively serve a small community market than a large multistate banking system such as ours." (Pete Ankeny, chairman and chief executive officer of the First Bank System Inc. of Minneapolis. First Bank System is the 14th largest bank holding company in the U.S.)

The Parsons Sun, December 11, 1985:

....."No one wants one large bank in Wichita controlling the entire state, but neither should the people of a small town be penalized for living in a small town." (Editorial)

Southwest National Bank, Wichita, December 1985 Newsletter:

....."Although multi-banking has not prevented bank closings this year in Texas (11), Oklahoma (12), Iowa (11), Missouri (6), and Nebraska (9), our former state unit banking system is being blamed for the 13 bank closings in Kansas during 1985."

Just nine months ago....."multibanking proponents were busily promising the Kansas Legislature on how multi-banking would resolve the problems of small rural banks and halt bank failures. Now as they look to a 1986 legislative session the bank closings continue, and the only major change wrought by multi-banking, so far, is the state's largest bank has gotten significantly bigger."

The Wichita Eagle-Beacon, August 16, 1985:

....."Residents fear that the closing has sounded the death knell for this northwest Kansas community [Herndon] of 200 about 40 miles northeast of Colby."

The Kansas City Times, August 24, 1985:

....."Mr. Whitney said that it was not unusual for the FDIC to be unable to find a new owner for a failed bank and that that is the case in one out of six failures." (Alan Whitney, FDIC spokesman in Washington).

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The Canton Pilot, October 23, 1985:

...."Early consideration of this legislation [detached facility to replace a failed bank] is so important that it must have an opportunity to be discussed and decided on its merits, rather than being placed in jeopardy through introduction of other banking issues." (J.B. Warren, president, Kansas Independent Bankers Assn.)

St. Joseph News-Press/Gazette, November 23, 1985:

...."Amid the word of some additional bank failures in the Middle West, there is some optimism concerning the impact of a new Missouri statute which permits banks to establish facilities in adjacent counties."

Bank News Mid-Week, October 2, 1985:

...."Barrett told the Kansas bankers that Nebraska has worse problem banks than Kansas but they have not had the closings because the Nebraska banking commissioner has other options available." (Kansas Bank Commissioner, Eugene T. Barrett)

Note: Though the Commissioner on that date had no way of knowing the final count on bank closings in either state, Nebraska by year-end 1985 had 13 bank closings - a number identical to Kansas. Six of the 13 banks were permanently closed with no replacement financial services. This is despite the fact that Nebraska has an emergency branching statute in addition to laws allowing multibank holding companies and branching.

**Testimony before the
Senate Financial Institutions
& Insurance Committee**

on SB 432

by J.B. Warren

Kansas Independent Bankers Association

January 28, 1986

TESTIMONY BEFORE THE SENATE COMMERCIAL FINANCIAL
INSTITUTIONS AND INSURANCE COMMITTEE

ON SENATE BILL 432

Mr. Chairman and members of the committee, I am Jim Warren, President of the Kansas Independent Bankers Association and Chairman of the Board of Farmers State Bank in Galva. I want to thank you for the opportunity to appear here today in support of Senate Bill 432.

As all of you know, Kansas had 13 bank failures in 1985 - six more than the year before. Seven of those failed banks were recapitalized under a new charter and reopened. Six were not. Of those six bank closings, three of the failed banks were located in towns which had another bank in the town so banking services would continue in those communities. Unfortunately, the other three communities, Dexter with a population of 366, Herndon with a population of 220, and Bronson with a population of 414 were left without a bank.

The Kansas Independent Bankers Association represents small and medium sized banks across this state. Some of the closed banks were members of our association. We have a great sensitivity for those who have an investment in a bank that has failed as well as great concern for the people of those communities that were left without banking services.

Kansas was not the only state hard-hit by bank failures in 1985. Nebraska also experienced 13 bank failures last year as did Oklahoma. In Nebraska, six of those banks in one bank towns did not reopen even though Nebraska authorizes

multibank holding companies, branch banks and detached facilities. Oklahoma, with similar bank laws, had one community lose its only bank. Further information on these closings are found on page 4 of the position paper distributed to you.

It would seem to be apparent that bank structure law by itself does not necessarily deter bank failure nor enhance the bidding process for a failed bank's assets. About this time a year ago multibank holding company legislation was before the Kansas Legislature. You may recall the testimony of those that alleged that it was to be the answer to finding more bidders for failed bank assets among other claims. Multibank holding companies became law in Kansas on July 1, 1985. Seven months later we have found multibanking has been very little help in providing bidders for any failed banks and no help at all in the situations of those three communities left without bank service. One thing it did do was to permit the largest bank in Kansas to acquire nine banks in the state.

Still, the problem of finding sufficient bidders for failed banks continues to plague Kansas - particularly in areas with population of less than 750. Last summer, the Kansas Independent Bankers Association held a series of meetings in an attempt to help formulate a workable solution for this problem. We met with the members of our own organization, those we feel have the most at stake, those

that best understand the rural banking problems of this state, and those that live with and have the greatest concern for the continuation of community banking services wherever possible. We also met with the State Bank Commissioner and his staff. We traveled to Kansas City and met with the Federal regulators. We met with portions of the legislative leadership and others in an effort to develop a concensus as to the best possible solution. Prior to the start of the session, we asked Senator Arasmith if he would introduce the bill for us and Senate Bill 432, before you today, is the result of that work.

To explain the criteria in designing the concept of the bill. I would like to give you some background information. Further explanation is contained in our position paper.

As you can see from the information on page 4 of the position paper, 62% of the one bank towns situated in Kansas are in towns of less than 750 population. Dexter, Herndon and Bronson were much smaller. There were no banks in one bank towns over 750 in population that were closed without a bank being rechartered in its place. We feel that any city larger than that should have a fully capitalized banking institution serving that community.

In response to the State Bank Commissioner's and other regulators' pleas, Senate Bill 432 will open up the market for banks to bid on the assets of a failed bank in one bank

communities of 750 or less population. Because establishing a detached facility is a less expensive method of retaining banking services in a community, this will allow smaller banks and more banks to become active in the bidding process.

Those within the immediate locale of the failed bank will be interested, in many cases, in obtaining banking access in a new area. You will note in new Section 2 of the bill that a geographic area is designated in which bidding banks must be located. However, we recognize that due to some sparsely populated areas in Western Kansas, a larger area from which to find eligible bidders might be necessary. Therefore, the geographical locale for bidding banks is extended to two contiguous counties of the home county of the failed bank. Missouri has a similar law recently enacted.

Another qualification for bidders is that no bidding bank may be an affiliate of a holding company that owns more than two banks. The KIBA support of this concept stems from our basic philosophy of diversification of financial resources. If large holding companies were allowed in the bidding process for detached facilities, it would open the door to statewide branch banking.

If a bidding bank is successful in purchasing the assets and liabilities of a failed bank for the purpose of establishing a detached facility it must operate that facility in the community where it was established for a period of at least 5 years. However, during that period, if the bank owning the detached facility wishes to dispose of

the facility, it may do so when a full service bank is chartered in its place.

In addressing the sunset provision of the bill, we recognize this bill is an outcome of social and economic conditions of the times. Hopefully, those times will change. If there is still a need for this type of legislation after 1991, the people will request its continuation and the legislature will obviously want to provide for its extension.

Mr. Chairman, Members of the Committee, after all of the research and work done on this bill, we realize that there can be no complete cure-all for failed banks. It is not possible for anyone to develop one magic solution to fit every situation and every circumstance. Other states have already shown us this. However, we feel that Senate Bill 432 answers, very well, the problem of how to continue banking services in communities whose only bank has failed and cannot be reopened as a new charter due to lack of bidders for the failed banks assets. This legislation makes it possible to maintain a banking facility in small communities where the only bank has failed. It is designed to provide solutions for the Dexters and Herndons of this state. We all hope that it is not needed at all. But with this legislation in place, the banking officials of this state and federal regulators will have a viable tool for increasing the number of bidders seeking to buy a failed bank's assets.

KIBA Testimony for SB 432 (Combined Drafts)
January 28, 1986
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The Kansas Independent Bankers Association respectfully asks your support of Senate Bill 432. I will be happy to respond to any questions.

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The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 28, 1986

TO: The Senate Committee on Financial Institutions and Insurance

RE: SB 432 - The Community Resources Security Act

Mr. Chairman and members of the Committee:

On behalf of the Kansas Bankers Association, I want to thank you for the opportunity to appear before the committee and discuss the vital issues addressed in SB 432. Chairman Arasmith is to be commended for recognizing the need to enact, with all due speed, legislation which will insure Kansas communities of the continuity of banking services. Everyone is well aware that the two worst setbacks a community can suffer are the loss of its schools and the loss of its financial institution.

It would be fervent hope that legislation such as SB 432 would not be needed in Kansas in 1986 or any subsequent year, but it is unrealistic to believe there will not be some banking institutions closed in the coming months and years. Until such time as the agricultural economy of this state makes a significant recovery, we can expect difficulties for those Kansas banks who are heavily involved in agricultural lending.

In 1985 there were 13 banks closed in Kansas and in 5 of those closings the bank's customers were forced to seek financial services elsewhere when there was not a "purchase and assumption" of the assets and liabilities of the insolvent bank. In 3 of the 5 instances, it left an entire community without banking services and in the remaining two instances where the insolvent bank had been located in a two-bank town, many customers were unable to establish a banking relationship with the remaining bank.

Because of these circumstances and the concern that such events might be repeated in 1986 and beyond, the Kansas Bankers Association has spent a considerable amount of time in developing legislation to address the problem. In November, 1985, the State Affairs Committee of the Association recommended to the KBA Governing Council proposed legislation which makes several amendments to the detached facilities statute in the state banking code. A major factor in the failure to attract purchasers for the assets and liabilities of insolvent banks has been the sizeable capital requirements necessary for a new charter thus making it difficult, if not impossible, to maintain a viable banking operation in a small community. It was the decision of the KBA Governing Council to ask for legislation which would allow any Kansas-based bank to acquire the assets and liabilities of a bank which has just been declared insolvent and establish a detached facility at the location of the insolvent bank if that bank had been located in

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Eighth and Jackson • Topeka, Kansas 66612 • (913) 232-3444
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Attachment III

a one-bank town. It is our belief that this will result in a larger number of interested bidders since a well-capitalized bank would not have to inject a significant amount of new capital for a detached facility operation.


There were extended discussions as to whether there should be some geographic restrictions on who would be considered eligible bidders and the Committee and Governing Council ultimately decided that in order to create a meaningful bidding pool it was not practical to place any restrictions on which Kansas banks should be allowed to bid. State and federal regulators have both expressed concern that the number of eligible and interested bidders continues to decline as the number of closings has increased and the KBA proposal is an attempt to reverse that trend. It is designed to give the receivers (FDIC) as much flexibility as possible to attract interested buyers in the very tight time constraints under which they must operate. The KBA proposal has been introduced in the House Committee on Commercial and Financial Institutions and we are asking that any hearings on the measure be delayed until the Committee has received a bill from the Senate.

There are currently 323 one-bank towns in Kansas (325 if Ft. Riley and Ft. Leavenworth are to be considered one-bank towns). 200 one-bank towns have a population of less than 750 while 123 have a population of 750 or more. As can be seen on the attached map, one-bank towns are to be found in all parts of Kansas with only 10 counties (mostly in western Kansas) not having at least one one-bank town. 57 of those 105 Kansas counties have 3 or more one-bank towns with Reno and Sedgwick counties having the most with 10 each.

Since 2 of the 5 insolvent banks which were not purchased were in 2-bank towns (Sedan and LaCrosse), it is interesting to note that there are 75 one-bank towns in Kansas and in 19 instances they are towns which are smaller than Sedan and LaCrosse. As noted above, the bank closings in those towns resulted in many bank customers being forced to seek banking relationships in other communities when the remaining bank was unable to accommodate all of the insolvent bank's customers. While this is an issue which is not addressed in either SB 432 or the KBA proposal, it is a problem which the legislature may well need to consider at some point.

Let me reiterate, Mr. Chairman, our sincere appreciation to you and your committee for acting on this matter in a timely fashion and we at the KBA wish to work with you to assure the citizens of Kansas communities financial services will be maintained for them, if at all possible.

Thank you for the opportunity to appear before the committee.



James S. Maag
Director of Research

JSM/ljs

KANSAS ONE-BANK TOWN STATISTICS

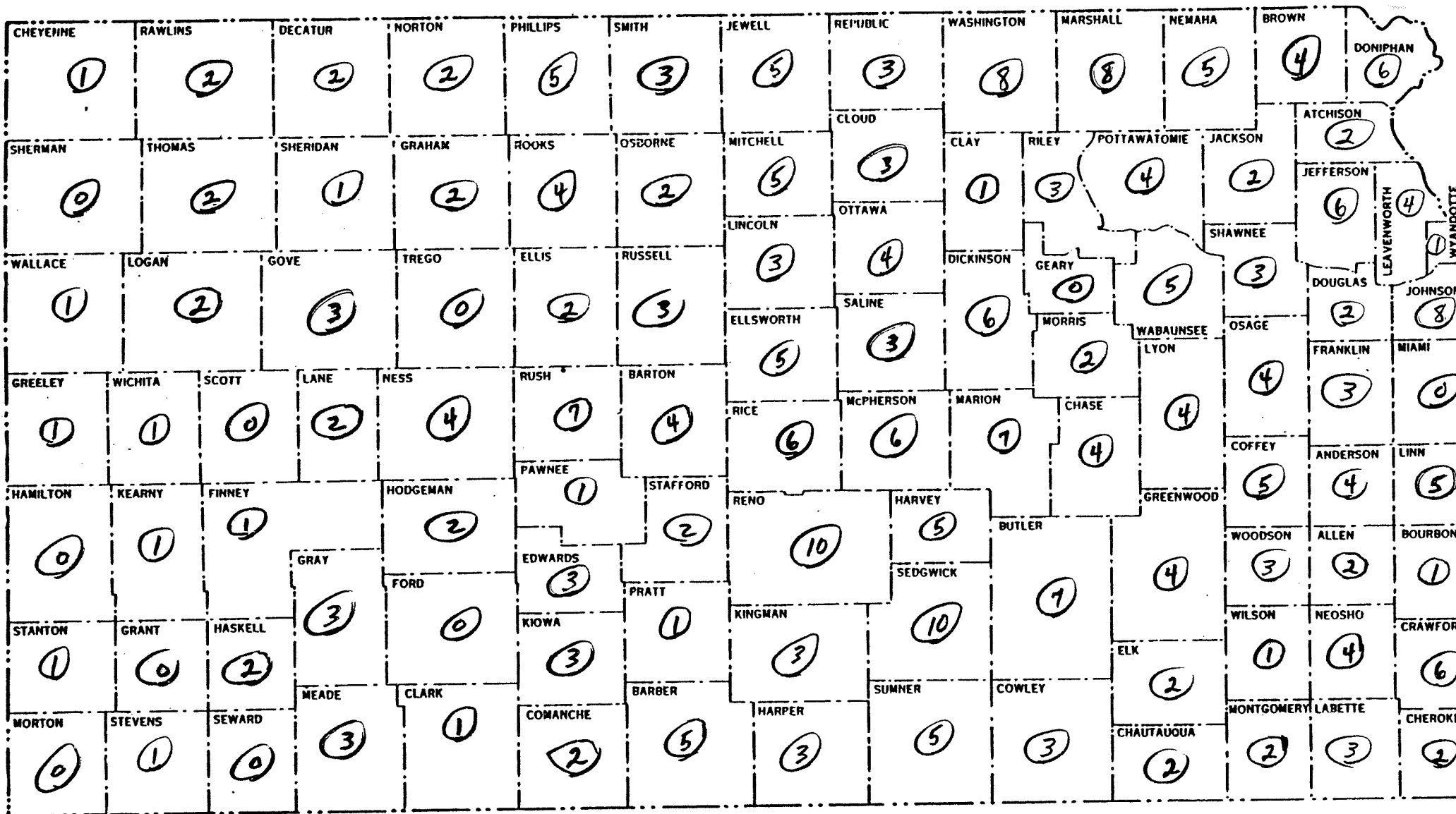
One-bank towns with populations of <u>less than 750</u>	200
One-bank towns with populations of <u>750 or more</u>	125
One-bank towns with populations of <u>1,000 or more</u>	95
One-bank towns with populations of <u>1,500 or more</u>	57
One-bank towns with populations of <u>2,000 or more</u>	39
One-bank towns with populations of <u>2,500 or more</u>	25
One-bank towns with populations of <u>3,000 or more</u>	17

* * * * *

Number of counties with <u>0</u> one-bank towns	10
Number of counties with <u>1</u> one-bank towns	16
Number of counties with <u>2</u> one-bank towns	22
Number of counties with <u>3</u> one-bank towns	19
Number of counties with <u>4</u> one-bank towns	13
Number of counties with <u>5</u> one-bank towns	11
Number of counties with <u>6</u> one-bank towns	6
Number of counties with <u>7</u> one-bank towns	3
Number of counties with <u>8</u> one-bank towns	3
Number of counties with <u>10</u> one-bank towns	2

(SEE ATTACHED MAP)

KANSAS



NUMBER OF ONE-BANK TOWNS PER COUNTY

TIMONY OF: State Bank Commissioner Eugene T. Barrett, Jr.

Presented To: The Senate Commercial & Financial Institution Committee

Date: January 28, 1986

Mr. Chairman and Senate Committee members, as you may be aware, in 1984 seven (7) banks in Kansas failed and seven (7) banks re-opened under a new charter. In 1985 thirteen (13) Kansas banks failed and five (5) did not re-open at all and one bank closed and re-opened in 1986. Since 1984 twenty-one (21) banks have failed in Kansas. During these last two (2) years, the Department of Banking has been cautioned several times by various regulators that buyers for failed Kansas banks are running out. The chart in front of you shows the first of these twenty-one (21) failed banks which did not have a buyer was in Dexter in June, 1985; the second in Herndon in August, 1985; the third in Bronson in August, 1985; the fourth in Sedan in September, 1985; and the fifth in LaCrosse in November, 1985. The foregoing statistics indicate that fewer purchasers are being found in Kansas for failed banking institutions.

Other facts which I feel need to be brought to this Committee's attention regarding the history of bank failures in Kansas, deal with the size of the towns in which there has been a failed bank. Of the twenty-one (21) failed banks since 1984, eleven (11) were in towns of less than 750 people. The remaining ten (10) were in towns of over 750 population; one having a population of 752. Under the Senate Bill No. 432, now before this Committee, ten (10) of the twenty-one (21) failed banks would not have been able to be purchased by a successor bank and operated as a detached facility. In addition, nine (9) of the twenty-one (21) failed banks were in communities wherein more than one (1) bank existed. Thus, none of these nine (9) failed institutions would be permitted, under Senate Bill No. 432, to be purchased by a bank and operated as a detached facility.

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Attachment IV

Furthermore, under Senate Bill No. 432, none of the twenty-one (21) failed banks would have been able to seek a buyer outside of the home county or a contiguous county to open a detached facility. In other words, under sub-section (c) of New Section 2, every bank failure since 1984, would not have been able to look to the next tier of contiguous counties for detached facility bidders because more than ten (10) banks existed when adding together the home county and contiguous county banks.

In view of the preceeding background and statistics and my experience as a regulator, I would like to share with this Committee my suggestions as to any such proposed legislation regarding a failed bank opening as a detached facility.

1. Keep the proposal as simple and streamlined as possible. Time is a critical factor during the bidding period, so the less complicated the procedure is for allowing the purchasing bank to establish a detached facility, the better the chances are for having a significant number of bidders for the bank.
2. Place no geographic restrictions on the banks which are bidding. It has been the experience of the FDIC that they are currently forced to notify banks from a very large area (half the state in some instances) in order to have a minimal number of banks at the bid meeting. An example of this situation was seen in November, 1985 in Oberlin and LaCrosse, Kansas, wherein the FDIC took notified eligible bidders from sixty (60) or more counties extending from Salina to the Colorado Border. As a result of all these invitations, only one (1) bid was received for the banks in Oberlin and none for the bank in LaCrosse. It is important to keep in mind that the FDIC will allow banks which they consider to be in sound financial and managerial condition to bid on a failed bank, and thus, a number of banks are precluded from bidding, even though they may be located in an area close to the failed bank.

3. I would also suggest that you explore the possibility of allowing the bank which has a stock loan on the failed bank to have the opportunity to take over the bank as a detached facility at some point prior to insolvency. I realize fully that this would be a difficult matter to deal with in legislation, but unless it is addressed, there is going to be increasing reluctance on the part of correspondent banks to participate in bank stock lending.

In conclusion, my firm belief is that any new legislation should be drafted as simply as possible. Basically, what we are in dire need of in Kansas is BRANCH BANKING.

RMD/jas

	1	2	3	4	5	
	1984	No. Banks	Population	County	Outcome	Par C
1/27/84	Indian Springs, K.G.	18	161,087	Wyan.	P&A (partial)	N/A
8/22/84	First S/B of Thayer	1	517	Neosho	P&A	N/A
10/10	Rexford S/B, Rexford	1	204	Thomas	P&A	N/A
	First B & T, Gaylord	1	203	Smith	P&A	N/A
11/29	Strong City S/B	1	675	Chase	P&A	N/A
12/11	University Bk., Wichita	16	279,272	Sedg.	P&A	N/A
12/20	Farmers S/B, Selden	1	266	Sheridan	P&A	N/A
	1985					
5/2	Bk. of Commerce, Chanute	2	10,506	Neosho	P&A	N/A
6/13	First S/B, Edna	1	537	Labette	P&A	N/A
6/20	Farmers S/B, Dexter	1	366	Cowley	Liq. X	N/A
7/2	Madison Bank	2	1,099	Greenwood	P&A	N/A
7/18	Eskridge	1	603	Wabaunsee	P&A	N/A
7/25	Ks.-Amer., O.P.	10	81,784	Johnson	P&A	N/A
7/25	Citizens Bk., El Dorado	3	10,510	Butler	P&A	N/A
8/14	S/B of Herndon	1	220	Rawlins	Liq. X	N/A
8/23	Bk. of Bronson	1	414	Bourbon	Liq. X	N/A
	First Nat'l., Onaga	1	752	Pottawat.	P&A	N/A
9/25	S/B of Sedan	2	1,579	Chaut.	Liq. X	N/A
11/21	F&M, LaCrosse	2	1,618	Rush	Liq. X	N/A
11/21	Oberlin	2	2,387	Decatur	P&A	N/A
	1986					
	First Nat'l., White City	1	542	Morris	P & A	N/A

TESTIMONY OF: James R. Shumaker
Assistant Regional Director - FDIC

PRESENTED TO: Kansas State Senate Finance Committee

DATE: January 28, 1986

Mr. Chairman and Senate Committee Members, I wish to thank you for the opportunity to offer the FDIC's views on Senate Bill #432. The FDIC applauds the intent of the proposed bill as liberalization of branching laws enhances the ability of the FDIC to sell failed institutions and thereby continue banking services which otherwise would be lost. Given the increasing difficulty being encountered in finding purchasers for failed institutions, any action which provides additional flexibility in structuring a transaction is beneficial.

The FDIC in its role as receiver of failed institutions, has significant experience in structuring purchase transactions for such institutions. In 1985 120 banks failed nationwide with 13 failures noted in Kansas. Nationwide, approximately 18 percent of such banks resulted in deposit payouts as buyers could not be found. In Kansas in 1985 the payout rate was 38 percent. Based on discussions with potential purchasers, it is evident that the necessity to charter a de nova bank to replace the failed institution and the capital requirements thereof has been detrimental to our endeavors to find a purchaser for such institutions.

When the FDIC is notified by a chartering authority that a failure is likely, FDIC personnel prepare a package of financial information for use by prospective bidders and develops a list of prospective bidders. Generally a meeting with prospective bidders will be held prior to the actual closing at a site relatively close to the failed bank. The nature of the proposed transaction, the name of the bank and bidding instructions are provided at this meeting. The intent is to provide all potential bidders with identical information to insure fair and competitive bidding. Such meetings oftentimes require travel by prospective bidders and require a significant time expenditure whether or not a decision is made to offer a bid.

Such meetings are generally scheduled relatively close to the date the institution will be closed. This is done to maintain confidentiality regarding the failing institution. In most instances, the institution is a functioning entity at the time of the meeting. Fairness to the owners of the institution requires confidentiality to maximize the institution's opportunity to correct its problems and avert closure.

Given the necessarily short timeframes to review the data provided, formulate a bid and obtain necessary approvals and financing, it is necessary to be selective regarding persons and institutions invited to bid. Additionally, the FDIC is desirous that the failure of the institution not be repeated. Prospective bidders are, therefore, selected based on the track records of their institutions. Generally, only banks rated a Composite 1 or 2 (the highest ratings accorded) are selected. 1 or 2 rated institutions which have CAMEL (Capital, Assets, Management, Earnings and Liquidity) component ratings of 3 or below may be deleted if it is determined that the bank's problems are

Received January 31, 1986

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Attachment IV-A*

sufficiently severe. The ability to provide management is believed critical to a transaction; hence, banks less than twice the size of the failing bank are generally excluded as the purchase would likely severely strain management capabilities.

Concurrent with the actions described above, our Division of Liquidation is assembling a staff to handle the receivership. The numbers of personnel needed and the actions of the liquidation staff are in large part governed by the success or failure of the bidding process. The FDIC devotes its efforts to insure that depositors' funds are available to depositors at the earliest possible time. We are hopeful that procedures for branching in failed bank situations will be established which will allow for a rapid transfer of deposits from the receiver to the successful bidder.

The FDIC can accept bids only after a determination that the transaction is legal and has been approved by the chartering authority. The FDIC, however, reserves the right to accept or reject any bid. This is necessary as the FDIC must legally be able to show that an assisted purchase and assumption transaction is the lowest cost method of handling the receivership. The FDIC has a minimum acceptable bid level for each failed institution, and a bid submitted below that level precludes its acceptance. As I will show later, branching allows banks to utilize existing excess capital to facilitate the asset growth inherent in a purchase and assumption transaction. This limits the need for new capital funds and new borrowings by the purchasers; hence, the availability of funds to pay a bid premium to the FDIC is enhanced.

An assisted purchase and assumption transaction has several safeguards not available in an open bank purchase. The FDIC retains all poor quality assets, and indemnifies the purchaser against suits for events prior to the purchase date. In addition, the regulatory authorities are available to allow for necessary regulatory approvals on an overnight basis. The limited success noted in 1985 in finding purchasers rests primarily with the unwillingness of potential purchasers to invest significant capital funds and to buy buildings which have excess capacity in markets of questionable viability. In many instances significant question exists as to the economic viability of the town in a few years. The options available to banks operating in small towns which will continue to decline are a gradual dissipation of earnings and ultimately capital or the augmentation of earnings through investments or loans outside of the bank's normal trade area. Neither situation aids the community in which the bank resides. Because of the limited options available, liberalization of branching laws for open banks as well as failed banks to allow for branching in such towns would be beneficial.

The failures in Kansas in 1985 show the difficulty in obtaining an adequate number of qualified and interested bidders. On average, in 1985, the FDIC contacted 35 groups to determine interest in a failed bank. From this number an average of 9 groups attended and listened to the FDIC's presentation on the specifics of the transaction. In one case only one party attended the informational meeting. In only one instance (El Dorado, Kansas) were more than two bids received. For the recent failures in LaCrosse and Oberlin, Kansas all qualified banks in the western one-half of the state were contacted. In addition 19 individuals or groups, which had requested consideration, from the eastern part of Kansas were contacted. In all, 47 parties were contacted for

LaCrosse and 51 for Oberlin. One bid was ultimately received on the Oberlin bank and none was received for LaCrosse.

The FDIC does not believe that liberalized branching will be a cure-all that will prevent future closings. Branching, however, does offer some clear economic advantages to potential purchasers as it allows banks to utilize excess capital funds available within the purchasing bank to fund the expansion and can reduce the amount of new capital funds needed. For example, if a bank with \$10,000,000 in assets fails, by regulation, a new bank would require capital of at least \$600,000. If a \$20,000,000 bank with an 8 percent capital ratio purchased the bank, the resultant \$30,000,000 institution would be required to have capital of at least \$1,800,000. The purchasing bank already has capital of \$1,600,000, hence, new capital funds of \$200,000 would be necessary versus \$600,000 for a de nova bank charter. Additionally, should the marketplace of the branch ultimately prove not to be viable, a bank may close the branch and suffer only a loss on the sale of the bank building. In this situation, the availability of credit sources for the community are continued by the parent bank and the bank's capital funds are protected. A chartered bank in such a marketplace has no option presently but to remain in the community until its capital accounts are fully depleted, thus, another failure with concomitant negative effects on the bank's borrowers and the community.

Senate Bill #432 places significant limitations on banks eligible to be purchased as branches. It appears that only 201 or one-third of the state's 625 banks could be eligible for relief under its provisions. Our experience at Sedan and LaCrosse, cities which had more than one bank, offers concern over the limitations established in the bill. Banks by regulation must maintain a 6 percent capital to asset ratio. Neither surviving bank in these communities had sufficient excess capital available to absorb the deposit growth which could be expected to flow from the failed institution. Neither had ready access to new capital funds. As a result, the preponderance of deposit funds in Sedan ultimately went to banks in Oklahoma, and much of the time money from LaCrosse was deposited in a Kansas City, Kansas bank.

Limitations in Senate Bill #432 would allow only banks within set geographic areas to branch. As previously mentioned, economic advantages to the purchaser in branching rather than de nova entry are substantial. Our experience in Nebraska, which allows statewide branching in failing bank situations, supports this contention as none of the 13 failing banks in Nebraska in 1985 were bid for by individuals or groups seeking de nova entry into the market. Prospective purchasers not meeting the tests of the bill would be placed at an economic disadvantage in the bidding process and would have to make an economic decision as to whether to compete for entry into the market. The FDIC is concerned that under the above circumstances the economic decision would generally be against bidding on less than an equal basis with other potential bidders. The impact of such decisions would be most notable in marginal markets which have proven the most difficult markets in which to maintain services. The FDIC is concerned that the bill enhances the saleability of the bank to too small a group and could have the unwanted effect of reducing the number of potential bidders, making sale of the bank less likely rather than more likely. Specifically, the FDIC is concerned with the limitations in Section 2(a), (b) and (c) and Section 5(b) of Senate Bill 432.

Section 6(d)(2) requires the approval of the state banking board to operate a full service detached facility more than 2,600 feet from the main bank premises. Given the timeframes within which a purchase and assumption transaction must be accomplished, this approval process could prove detrimental to utilization in failed bank situations.

Section 1(b) precludes holding companies with three or more Kansas banks from the bidding process. As many potential bidders already own more than three banks and could bid under this bill, the specific purpose of this limitation is not understood. The section appears to preclude an otherwise legal method for banks or individuals to structure a purchase transaction.

Implementation of Section 2 of the bill could create troubling delays in resolving failed bank situations and could prove unnecessarily costly to the FDIC. It appears that it may be necessary to seek bids for a de nova bank before bids as a branch may be accepted, in order to meet the requirement that attempts to recharter a bank have been made and failed. In the alternative, concurrent acceptance of de nova and branch bids would be necessary. The language of the bill suggests that a de nova bid must be given precedence over a bid as a branch. This condition raises the prospect that the FDIC would have to decline a more favorable bid and accept a lesser bid by a purchaser seeking a de nova charter.

It is hoped that information regarding FDIC procedures in failing bank situations and our specific concerns over provisions of Senate Bill #432 will prove of some assistance to you in your deliberations of this increasingly important matter.

Kansas League of Savings Institutions

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

January 24, 1986

Honorable Neil Arasmith
State Senator
State Capitol
Topeka, Kansas 66612

Dear Senator:

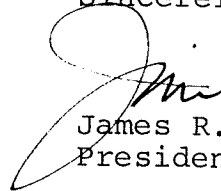
Due to a prior commitment to be in Wichita on January 28 it will not be possible for me to attend the hearings on S.B. 432.

However, we did want to share with you the unanimous decision of the League's Legislative Committee to support the concept of legislation that would allow for the establishment of supervisory branches.....or whatever name is used.....in those communities where a commercial bank has failed. The FSLIC presently has such an option available to them in dealing with a problem savings and loan association.

While the League supports the concept we are not expressing a preference for the position of either the KBA or the IBA. The pleasure of this controversy rightly belongs to the elected members of the Legislature!

We would appreciate your consideration in sharing the League's position with the Financial Institutions and Insurance Committee.

Sincerely,



James R. Turner
President

JRT:bw

cc: Jim Maag
cc: Pete McGill

1/28/76 Sen. FI&I
Attachment V