Approved: March 13, 2003
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman Kenny Wilk at 3:30 p.m. on March 11, 2003, in Room 522-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research Department
Fulva Seufert, Secretary

Conferees appearing before the committee: Steve Kelly, Business Development Director of Kansas Department of Commerce & Housing

Charles Ranson, President, Kansas, Inc.

Michael Peck, VP of Investments & Portfolio Management, KTEC (Written only)

Richard (Dick) A. Wertzberger, Senior Vice President, Director of Retail & Mortgage Banking in Manhattan

J. C. Lakhani, President, Commercial Group (Written only)

Representative Vaughn Flora

Harry "Butch" Felker, Mayor of Topeka

Chris Wilson, Director of Government Affairs of the Kansas Building Industry Association (KBIA)

Martha New Smith, Executive Director, Kansas Manufactured Housing Association (KMHA)

Steve Weatherford, President, KDFA

Others attending: See attached list

Chairman Wilk opened the meeting by asking Ms. April Holman, Legislative Research Department, to explain the following bill:

SB 65 - Amending the Certified Capital Formation Company Act

The Chairman opened the Public Hearing on **SB 65** and welcomed Mr. Steve Kelly, Business Development Director of Kansas Department of Commerce & Housing, who spoke as a proponent of **SB 65**. Mr. Kelly focused on two principles. First, the regulation should ensure that the substantive objective of the Act should be met and second, the Department should meet its fiduciary responsibility, both fiscal and legal. In order to address these two primary objectives, he offered some suggestions for amending the Act. The first involved the timetable for state payment of the tax credits. "Since sections (1)-(3) of K.S.A .74-8225 are eliminated, references to these sections are deleted. K.S.A. 74-8116(d) is deleted in its entirety and subsection (e) is amended to read, Decertification a CFC shall cause the forfeiture of tax credits commencing with a taxable year of the investor or transferee in which the decertification arose."

He said he believed that these changes will increase the interest of investors and speed up investment in

Kansas businesses. The Chairman thanked Mr. Kelly. (Attachment 1)

The Chair recognized Mr. Charles Ranson, President, Kansas, Inc., who spoke briefly in support of the amendment because he thinks it will attract high quality fund management and high quality capital investors to the Capital Formation Companies program. Kansas, Inc. supports amendatory language that clarifies intent that persons who seek to become certified shall not have a history of criminal conduct, violation of securities law, or breach of fiduciary responsibility. (Attachment 2)

Chairman Wilk asked if Kansas Technology Enterprise Corporation (KTEC) would also submit written testimony. (Attachment 3)

Seeing no other conferees, the Chair closed the Public Hearing on **SB 65**.

Chairman Wilk reopened the Public Hearings for the following:

> **HB 2395 - Authorizing the Kansas Development Finance Authority to issue mortgage revenue bonds**
>
> **HB 2373 - Amending KDFA to allow loans directly to individuals to finance housing developments**

The Chair announced that there were still several people to testify and then there would be an open discussion where committee members and guests could interact.

Chairman Wilk welcomed Mr. Richard (Dick) A. Wertzberger, Senior Vice President, Director of Retail & Mortgage Banking in Manhattan, who testified in support of **HB 2395**. He said he moved to Kansas from Nebraska in 1991 and that Nebraska has had the Nebraska Investment Finance Authority for over 20 years. He said he was surprised to learn that Kansas was the last state in the union to form a Department of Housing, which means that Kansas is playing 20 years catch up with bordering states in meeting the needs of its citizens to own affordable housing. He also encouraged the committee to look at the board makeup since it does not appear to have anyone who has expertise with working with low to moderate income households. (Attachment 4)

The Chairman called the committee's attention to the written testimony of J. C. Lakhani, President, Commercial Group, whose testimony supports **HB 2395** because it will utilize one agency to meet both home buyers and developers' needs. (Attachment 5)

Chairman Wilk welcomed Representative Vaughn Flora, D-Shawnee County, who said he has been a housing advocate for the past 10 years. He also said he has long been a proponent of Kansas establishing a housing finance authority. He stated that **HB 2373** was proposed before **HB 2395** and that "**HB 2395** creates definitions and lays out a plan for issuing mortgage revenue bonds much more clearly than **HB 2373**." A major difference is that **HB 2373** allows the state to issue single-family mortgage revenue bonds, and **HB 2395** allows the state to become the single issuer for the state. He said, "Being the single issuer would allow the state more leverage to get a better bond interest rate as well as a better bond rating." He urged the committee to support **HB 2395** and not to work **HB 2373**. (Attachment 6)

Chairman Wilk called the committee's attention to the written testimony of Mayor Harry "Butch" Felker of Topeka, who is a proponent of **HB 2395**. (Attachment 7)

The Chair asked if there were any additional proponents, and seeing none, he recognized Ms. Chris Wilson, Director of Government Affairs of the Kansas Building Industry Association (KBIA), who said their board of directors had not had an opportunity to review the current proposal, and she felt it was a big step to take too swiftly. She pointed out two major complaints that they have heard about the program from other states are 1) that projects often go to non-profit housing groups and that for-profit builders do not have the opportunity to participate, and 2) there are often no housing agency board members with building expertise. She offered the following suggestions:

1. Provide two or more positions on the KDFA board for members with building expertise.
2. Focus the program on lower income borrowers, as under the current statute
3. Provide for the continuation of these successful local programs that should not have to be sacrificed in order to make a state program available to other areas of the state. (Attachment 8)

The Chair next recognized Ms. Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association (KMHA), who said she had several concerns with **HB 2395**. Her first concern was with the scope of authority KDFA will have and that KDFA would provide services to both low and moderate-income families. A second concern was that **HB 2395** would allow KDFA to originate home mortgage loans for the purpose of constructing or improving a home. She said they liked the down payment assistance program, but do not like the idea of originating home loans for construction due to competition with private business. Ms. Neu Smith asked the committee to consider the following:

- Narrowing the focus of the bill to address only low income families
- Eliminating the ability of KDFA to originate mortgage loans
- Providing positions on the KDFA Board of Directors to include individuals with housing expertise
- Including "modular home" as defined in K.S.A. 58-4202 ©) on page 3 of the bill (Attachment 9).

Chairman Wilk recognized Mr. Steve Weatherford, President, KDFA, who presented the following amendments for **HB 2395**:

- No Direct Lending. Page 4, line 32
- Use of Proceeds for Housing Programs. Page 10, line 11
- Typographical Fix. Page 11, line 19
- Volume Cap Carry Forward. Page 11, line 23
- Rural Set Aside. Page 11, line 10 (Attachment 10)

Chairman Wilk said that because of the late hour, the hearing would resume on Thursday, March 13, 2003. He also announced that the committee would be discussing **SB 65** on Thursday.

Representative Novascone made a motion to approve the minutes of the March 6, 2003, meeting. Represesntative Loganbill seconded. Motion carried.

The meeting adjourned at 5:15 p.m.

•

HOUSE ECONOMIC DEVELOPMENT COMMITTEE

TUESDAY, MARCH 11, 2003

NAME	REPRESENTING
Rose Flora	
Paul Johnson	PACK
Brad Snapp	Sedgwick County
Dick Werthmayer	1st Bank - Manhattan
Stephanie Buchanan	DOB
Charles Ranson	Kansas, Inc.
Phil Thomas	ADVANTAGE CAPITAL
Kevin Egan	KTEC
Martha Neu Smith	KMHA
Amy Apitz	KDOC&H
Christine Reimler	KDOC+H
Elban YILMAZ	KTEC
Larry R. Baer	LKM
Paul Johnson	PACK
Vaughn L. Flora	Legislator
Steve Kelly	KDOCH

Kansas Department of Commerce & Housing

House Committee on Economic Development

Testimony of Steve Kelly, Business Development Director

SB 65 – Amending the Certified Capital Formation Company Act

Tuesday, March 11, 2003

Thank you for the opportunity to appear before you today on SB 65. Over the past few months, staff from the Department of Commerce & Housing and the Kansas Technology Enterprise Corporation met with our retained consultant for developing rules and regulations for the Act, Dr. Jay Kayne, to discuss implementation. The meetings focused on provisions of the Act that needed to be addressed in the regulations that will govern the program. As part of this review we focused on two principles. One, the regulation should ensure that the substantive objective of the Act—investment in emerging Kansas firms—is met. Two, the Department meets its fiduciary responsibility, both fiscal and legal.

An analysis of the bill that was prepared for our discussion raised an issue that goes beyond regulatory language. We believe that KSA 74-8225(a)(1)-(3), which requires a Capital Formation Corporation (CFC) to fully invest its certified capital in qualified Kansas business within five years, when viewed in light of the potential penalties to investors in CFCs identified in KSA 74-8226(d), has a high probability of undermining the substantive objective of the Act. While the eventual rate of return on any individual investment in a venture capital fund is uncertain, the value of the 50 percent tax credit is designed to make investment in the CFC program more attractive than other alternative investments. The potential forfeiture or recapture of that incentive, as prescribed in the current statute, makes the CFC program a significantly less attractive investment.

Precedent in other states suggests that an absolute requirement on a state supported venture fund could place the State of Kansas and a CFC in an adversarial relationship. In the 1990s the State of Iowa and the general manager of a state supported venture capital fund were involved in litigation because the fund managers did not meet the state's investment expectations. The fund managers argued that their responsibility was to raise the fund and to make prudent investments in companies that met the investment criteria. Responsibility for creating sufficient deal flow from which they could make prudent investments was not their responsibility. The court agreed, the fund was dissolved and the fund manager moved its operations to another state.

The Department can certainly promulgate a rule under the current language, and we are in the process of doing so. However, we are concerned that this provision will severely limit the number of applicants for certification as a CFC and inhibit their ability to raise private capital. Therefore, we respectfully request that the Legislature amend the Act so

Since sections (1)-(3) of KSA 74-8225 are eliminated, references to these sections are deleted. KSA 74-8226(d) is deleted in its entirety and subsection (e) is amended to read, "Decertification a CFC shall cause the forfeiture of tax credits commencing with the taxable year of the investor or transferee in which the decertification arose."

We believe that these changes will increase investors' interest in this program, accelerate investment in emerging Kansas businesses, and are consistent with the Legislature's fiscal limits on the program. Each CFC, and individual investors in each CFC, will still be subject to all other provisions of the Act.

Thank you for your attention to this request. In you have questions or need additional information, please do not hesitate to contact me.

House Economic Development Committee
Testimony in Support of SB 65
Charles R. Ranson, President
Kansas, Inc.
March 11, 2002

Kansas, Inc. supports amendments to the Kansas Capital Formation Act that are proposed in SB 65. The requirement in current laws that requires investments of CFCs to be made by a time certain in order that credits earned by investors be protected from forfeiture undermines an effective program because it diminishes the focus on finding the best deals, even if that takes longer than the artificial three to five year timeframe. Our focus (and the focus of fund investors and managers) always should be on investing in those qualified investments that have the highest potential to grow to become significant contributors to the Kansas economy.

Kansas, Inc. also supports amendatory language that will clarify intent that persons who seek to become certified under the program shall not have an history of criminal conduct, violation of securities law or breach of fiduciary responsibility.

Amendments in SB 65 will increase our capacity to attract high quality fund management and high quality capital investors to the Capital Formation Companies program.

House Economic Development
3-11-03
Attachment 2

KTEC

KANSAS TECHNOLOGY ENTERPRISE CORPORATION

TO: Representative Kenny Wilk

FROM: Michael Peck, VP of Investments and Portfolio Management, KTEC

DATE: March 12, 2003

SUBJECT: Senate Bill 65

CC: Tracy Taylor, KTEC
Kevin Carr, KTEC

We respectfully submit that KTEC is in full support of Senate Bill 65 – Amendments to the Certified Capital Formation Company Act.

The bill makes necessary and appropriate changes to the Certified Capital Formation Company Act that passed during the 2002 legislative session. Among several technical changes in the bill, KTEC believes there are two important issues addressed in SB 65:

- The original bill required onerous benchmarks on background criminal checks for CFC fund managers. These benchmarks disqualified anyone with any criminal offense greater than a traffic misdemeanor. SB 65 modifies the benchmarks to focus on financial criminal and felony activity. KTEC believes these modifications are proper.

- The original bill required that the fund invest specific dollar amounts by specific dates. This is contrary to proper investment methodology and could encourage bad investments. The modifications remove this requirement and allow the fund manager to invest based on the quality of the investment, not the timing of the investment. Again, KTEC believes this modification is proper.

KTEC appreciates your committee's support of SB 65 and your continuing support of KTEC.

House Economic Development
3-11-03
Attachment 3

214 S.W. 6th, First Floor • Topeka, KS 66603-3719 • Phone. 785.296.5272 • Fax. 785.296.1160
Internet: www.ktec.com • E-mail: ktec@ktec.com

FirstBank
www.firstbank1.com

March 5, 2003

The Honorable Senator Kenny Wilk,
Chairperson, House Economic Development Committee
300 SW 10TH Street
Room 426-N
Topeka, Kansas 66612-1504

RE: House Bill 2395

Dear Senator Wilk:

I am writing in support of Bill No. 2395 which grants the Kansas Development Finance Agency authority to issue statewide single-family mortgage revenue bonds.

I have resided in Kansas since September of 1991. Prior to moving here I lived in Nebraska. Nebraska has had the Nebraska Investment Finance Authority (NIFA) for over 20 years. As a banker there, I appreciate what it has down for helping First-time Home buyers and low to moderate income households. The ability to direct lend to worthy projects was also not a concern shared by the majority of my fellow mortgage bankers. It filled a void.

Imagine my surprise to find out that Kansas was the last state in the union to form a Department of Housing. It was actually a department under the Department of Commerce. In later years it received equal billing. This was formed initially to handle Federal Funds for communities under 50,000 population to distribute HUD block grant funds. I served as an advisor to this department whereby we developed the State of Kansas Downpayment Assistance Program to meet the housing needs of low to moderate income households looking to buy their first home.

However, the ability to issue Mortgage Credit Certificates (MCCs) and Revenue Bonds existed at the county level. Only two counties, Shawnee and Sedgwick were aggressive enough to issue bond programs. While these met the needs of households in Wichita and Topeka, it was up to other counties to enter into inter-local agreements so lenders in their counties could participate. To me this was extremely inefficient and a barrier to broader participation within the State.

My point in all this is the State is playing 20 year catch up with neighboring states in meeting the needs of its citizens with regard to homeownership.

House Economic Development
3/11/03
Attachment 4

I request your support for this legislation because it assists in addressing the housing affordability in both urban AND rural communities across the state of Kansas.

One final observation I have as a mortgage banker. The present board makeup does not appear to have a mortgage banker nor someone with expertise who works with low to moderate income households. I strongly encourage addition of these types of representatives.

Sincerely,

Dick Wertzberger

Richard (Dick) A. Wertzberger
Senior Vice President
Director of Retail & Mortgage Banking

C G

COMMERCIAL GROUP

March 11, 2003

Rep. Kenny Wilk
Room 426-N, State Capitol
Topeka, Kansas 66612

Re: House Bill 2395

Dear Rep. Wilk:

Our company has been involved with the affordable housing industry for over twenty years. We currently have 47 properties, 46 of which are in Kansas. They range in size from 8 to 164 units. We work closely with the Department of Housing on tax credit developments, and recognize the convenience of having the State's housing programs administered through one central agency. The passage of HB 2395 would accomplish this goal.

With the introduction by the Governor of her Executive Reorganization Order (ERO) transfer the Housing Division to the Kansas Development Finance Authority (KDFA), the State is now in a position to consolidate its housing resources under one agency. HB 2395 will compliment the ERO by authorizing the KDFA to be the State's one stop-housing agency. This will be of great benefit to those organizations and counties that have in the past not taken part in these housing programs. They now will have one direct contact concerning housing issues, the KDFA. Having one central authority for housing issues is something that Kansas needs if we are to keep pace with the changing housing market and industry.

As a housing developer, we support HB 2395 as it will enable us and other developers or first time home buyers to utilize one agency to meet our needs.

Sincerely,

J. D. Lakhani
President

620 SE Madison - Suite 130 - Topeka, Kansas 66607 - (785) 234-2882 - Fax (785) 234-0802

House Economic Development
3-11-03
Attachment 5

vAUGHN L. FLORA
REPRESENTATIVE, 57TH DISTRICT
431 WOODLAND AVE.
TOPEKA, KANSAS 66607

STATE CAPITOL
RM 278-W
TOPEKA, KANSAS 66612-1504
785-296-7647

STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: ENVIRONMENT
MEMBER: TAXATION
AGRICULTURE & NATURAL RESOURCES BUDGET
JOINT COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS
FINANCIAL INSTITUTIONS

ECONOMIC DEVELOPMENT COMMITTEE

TESTIMONY ON HB 2373 and HB 2395

MARCH 11, 2003

Mr. Chairman and Committee Members:

I am Vaughn Flora, a fellow legislator from Shawnee County, and have been a housing advocate for the past 10 years. I have been in favor of Kansas establishing a housing finance authority ever since my legislative career began nine years ago.

Kansas has fallen behind all other states in $ spent for housing programs, according to an article published by Kansas State University in the Department of Agricultural Economics. They compared Kansas with the other states and found that the per capita spending, for housing programs, in Kansas resulted in a ranking of 48th of the 50 states. In terms of expenditures for housing programs per $1000 of personal income, we were ranked 51st, thus being even lower than the District of Columbia in fiscal year 1999. Spending had dropped 6% from the 1992 level. Most if not all of the housing programs administered by the Kansas Division of Housing are federal monies past on to, and administered, by the state. I believe by creating a housing finance authority and allowing the state to issue single family revenue bonds as other states do, Kansas can begin to pull itself up in the ranking of $ being spent on housing programs and to more efficiently use this important economic development tool.

HB 2373 was proposed before HB 2395 was proposed. HB 2395 creates definitions and lays out a plan for issuing mortgage revenue bonds much more clearly than HB 2373. The major difference between the two bills is that HB 2373 allows the state to issue single-family mortgage revenue bonds. HB 2395 allows the state to become the single issuer for the state. Being the <u>single</u> issuer would allow the state more leverage to get a better bond interest rate as well as a better bond rating. Therefore I urge the committee to support HB 2395 and not to work HB 2373.

House Economic Development
3/11/03
Attachment 6

Down payment and closing costs are the greatest hurdle to first time home buyer purchases. The MRB Program for single family homes does not afford a lower interest rate on a home buyers loan, it usually provides down payment and closing costs assistance.

- Shawnee County has historically been the second largest user of the program. I am from Shawnee County and have heard no concern about the state becoming the sole issuer of the MRBs or that Shawnee County's share would be reduced. The numbers in Shawnee and Sedgewick counties are needed to provide the volume to serve lower income areas.

- Total HOME Funds equals approximately $8,469,000 in 2002. 25% or $2 million was used in the first time home buyer program to provide down payment and closing cost assistance. With the mortgage revenue bond program the $2 million of HOME funds could be used for other affordable housing purposes.

- There are 35 counties that have never used the MRB program.

This bill is about equitable distribution of MRBs throughout all counties of Kansas. Having the state act as a single issuer of MRBs would help insure all counties could receive this down payment and closing cost assistance. This assistance could work hand in hand with other state and local affordable housing programs to bring the dream of home ownership to many more all over the state of Kansas.

CITY OF TOPEKA

Harry "Butch" Felker, Mayor
215 S.E. 7th Street, Room 352
Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785-368-3850

March 11, 2003

Representative Kenny Wilk, Chairperson
& Members of the
House Economic Development Committee
Kansas State Capitol Room Number 416 South
300 SW 10th Street
Topeka, Kansas 66612

Re: Support for HB No. 2395

Dear Representative Wilk:

As Mayor, I would like to communicate my support of House Bill No. 2395. I am pleased you have accepted the challenge of reviewing the benefits of a statewide Housing Finance Agency. Affordable housing continues to be an unmet need in the City of Topeka. Efforts to enhance the distribution and creation of affordable housing resources by the State of Kansas are certainly welcome. The lack of affordable financing options continues to be one of the key impediments to homeownership in Topeka.

As you move forward with your efforts, I would urge you to carefully consider the implementation of appropriate measures to ensure that the Kansas Development Finance Authority supplements the efforts of local lenders rather than directly competes with them. Local lenders currently play a vital role in delivering homeownership opportunities to our citizens and we do not want to hinder their efforts.

Sincerely,

Butch Felker

Harry "Butch" Felker
Mayor of Topeka

House Economic Development
3-11-03
Attachment 7

KANSAS BUILDING INDUSTRY ASSOCIATION, INC.

ACROSS THE COUNTRY HOME BUILDERS CARE

STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION

TO THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

REPRESENTATIVE KENNY WILK, CHAIR

REGARDING H.B. 2373 AND H.B. 2395

MARCH 11, 2003

Chairman Brownlee and Members of the Committee, I am Chris Wilson, Director of Government Affairs of the Kansas Building Industry Association (KBIA). KBIA is the statewide trade and professional association of the home building industry, with approximately 1800 members.

KBIA has historically opposed legislation similar to those before you today. The Association's opposition has been based on:

- Opposition to growing state government and creating a new agency
- Opposition to government competition with the private sector
- Breadth of the legislation in terms of authority granted to the housing finance agency
- Opposition to elimination of successful local programs

With the current proposal, we have not had the opportunity to present it to our board of directors or membership or to study it in as much detail as we would like. It seems a big step to take hastily. We certainly do have local HBA support for the bill, as you have heard from Dave Holtwick of the Greater Kansas City HBA. This proposal may present a good opportunity for the Kansas City area. There is great support and initiative among builders in the Kansas City area as in other areas of the state to build affordable housing for the low to moderate income market, and this legislation may provide greater assistance for those buyers.

The 1100-member Wichita Area Builders Association is very supportive of the local program in Sedgwick County and would like to see that be able to continue. It seems an injustice to have to eliminate successful local programs in order for the statewide program to go forward.

We are excited to have someone of Steve Weatherford's expertise serving as president of KDFA, and we greatly appreciate the time he has taken in explaining this proposal to us and his effort in working to alleviate our concerns. The two major complaints we hear about this program from other states are 1) that the projects supported by the program often go to non-profit housing groups, and for-profit builders don't have the opportunity

House Economic Development
3/11/03
Attachment 8

to participate, and 2) problems where there are no housing agency board members with building expertise.

If this legislation is to move forward, we urge you to:

1. provide two or more positions on the KDFA board for members with building expertise
2. focus the program on lower income borrowers, as under the current statute, and
3. provide for the continuation of these successful local programs that should not have to be sacrificed in order to make a state program available to other areas of the state.

Thank you for the opportunity to comment on House Bills 2373 and 2395, and I would be glad to respond to questions.

KANSAS MANUFACTURED HOUSING ASSOCIATION

214 SW 6th St., Suite 206
Topeka, KS 66603-3719
785-357-5256
785-357-5257 fax
kmha1@mindspring.com

TESTIMONY BEFORE THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

TO: **Representative Kenny Wilk, Chairman**
And Members of the Economic Development Committee

FROM: **Martha Neu Smith, Executive Director**

DATE: **March 6, 2003**

RE: **House Bill 2395**

Chairman Wilk and members of the House Economic Development Committee, my name is Martha Neu Smith and I am the executive director of the Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to comment on HB 2395. KMHA is a statewide trade association that represents all facets of the manufactured housing industry including, manufacturers, retailers, land leased communities, suppliers, finance and insurance companies and transporters.

First let me say that Steve Weatherford was kind enough to meet with a couple of my legislative committee members and myself to go over the proposal before you and we do appreciate his willingness to work with us. Unfortunately, KMHA still has several areas of concern with HB 2395.

Our first concern is with the scope of authority Kansas Development Finance Authority (KDFA) will have under HB 2395. The way the bill is written KDFA would provide services to low and moderate-income families. We understand the need and agree with the inclusion of low-income families, however, KMHA does not agree that moderate income should be included. As I understand it from our meeting with Steve "moderate income" under the tax-free bond program would mean a borrower could earn as much as 115% of the area median income. In the Topeka area "moderate income" could be $59,200 for a family of two, for the Garden City area that would be $55,100 for a family of two. Are these the families that need the state assistance the most?

Second, HB 2395 would allow KDFA to originate home mortgage loans for the purpose of constructing or improving a home. We agree that providing a down payment assistance program is a good program, however, originating home loans for construction we feel is the first step in allowing government to compete with private business, which we do not agree with.

House Economic Development
3-11-03
Attachment 9

Third, currently KDFA has a five member Board of Directors with expertise in bonds. As of July 1, 2003, when the Division of Housing is transferred to KDFA a majority of the staff will be dedicated to working on housing programs. KMHA feels that either some of the existing seats on the KDFA Board need to be statutorily dedicated to individuals with housing expertise or the Board be expanded to include individuals with housing expertise.

Fourth, "modular home" as defined in K.S.A. 58-4202 (c) is not included in the definitions; consequently they would not qualify for the program. KMHA has addressed this issue with KDFA and they have indicated that they do not have a problem including "modular home" to the definitions.

In closing, I would respectfully request that you consider:

- Narrowing the focus of the bill to address only low income families
- Eliminate the ability of KDFA to originate mortgage loans
- Provide positions on the KDFA Board of Directors to include individuals with housing expertise
- Include "modular home" as defined in K.S.A. 58-4202 (c) on page 3 of the bill

Again, thank you for the opportunity to comment on HB 2395.

9-3

census contained a population of 25,000 or less, not less than 150 permanent and seasonal employment positions as defined by K.S.A. 74-50,114, and amendments thereto, will be created in the state by such project; (iii) is located outside of the city limits of any city at the time of such finding; and (iv) is to be located at a site designated as a federal enclave as of January 1, 1998.

(r) "State" means the state of Kansas.

(s) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of this state.

(t) "Home" means (1) (A) a one to four family residence;

(B) a condominium as defined in K.S.A. 58-3102, and amendments thereto;

(C) a manufactured home, as defined by K.S.A. 58-4202, and amendments thereto; or

(D) a modular home, as defined by K.S.A. 58-4202, and amendments thereto; or

(E) ~~*(D)*~~ *a mobile home, as defined by K.S.A. 58-4202, and amendments thereto, having a permanent foundation which may not be removed intact from the land; and*

(2) consists of the land and improvements thereon, which is either owned and occupied or is owned and is to be occupied by the mortgagor, and in the case of a two to four family residence one unit of the residence, shall be either owned and occupied or is owned and is to be occupied by the mortgagor.

(u) "Home mortgage loan" means a loan to a mortgagor evidenced by a promissory note and secured by a mortgage, purchased or originated by the authority made for the purpose of acquiring, constructing or improving a home.

(v) "Lending institution" means any bank, bank holding company, credit union, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution which customarily originates or services home mortgages.

(w) "Mortgagor" means any person of low or moderate income who has received or qualifies to receive a home mortgage loan on a home.

(x) "Persons of low or moderate income" means a person or family, consisting of one or more persons all of whom occupy or will occupy the home, whose aggregate gross income shall not exceed a maximum amount to be established by the authority, determined in accordance with appropriate criteria, rules and regulations and approved by the authority in connection with the implementation of a residential housing finance plan.

(y) "Residential housing finance plan" means a program implemented nder this act by the authority to assist persons of low or moderate income in acquiring safe, decent and sanitary housing. Such plan shall include

Martha

03/11/03 proposed changes to Senate Bill No. 222 and House Bill No. 2395, Session of 2003

A. No Direct Lending. Page 4, line 32; in Section 2 of the bills, revise last three lines of subsection (i) of 74-8904 to read as follows:

> except as otherwise provided in this subsection, ~~nothing in this act shall be construed to authorize~~ the authority shall not be authorized to make loans directly to individuals to ~~finance housing developments~~ (1) originate home mortgage loans secured by a first lien in competition with private lending institutions or (2) originate home mortgage loans secured by a junior lien in competition with private lending institutions unless such home mortgage loans secured by a junior lien are made only to pay all or a portion of a mortgagor's required down payment or closing costs in connection the acquisition of a home;

B. Use of Proceeds for Housing Programs. Page 10, line 11; in Section 3 of the bills, add a second sentence to subsection (h) of 74-8905, as follows:

> Any moneys derived by the authority from the issuance of bonds under this subsection (h) and not used directly to finance, acquire or originate home mortgage loans shall be used by the authority to support programs or activities related to low or moderate income housing.

C. Typographical Fix. Page 11, line 19; in New Section 5 of the bills, add "or" following "finance,".

D. Volume Cap Carry Forward. Page 11, line 23; in New Section 5 of the bills add the following proviso to New Section 5:

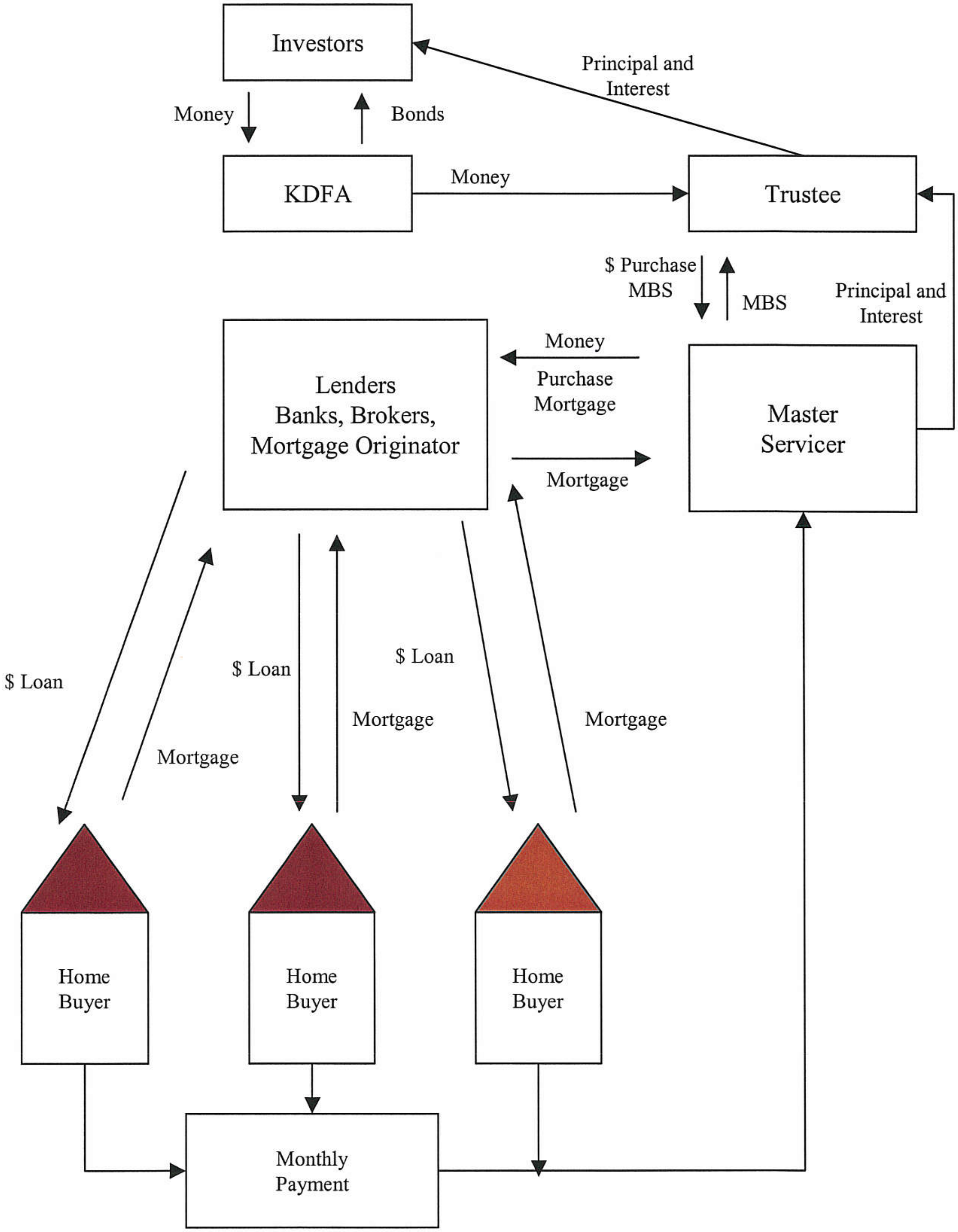
> ; and provided that, notwithstanding the provisions of this new section 5, a political subdivision may issue single family mortgage revenue bonds to the extent that, and in the amount of, any allocation of private activity state volume cap pursuant to section 146 of the federal internal revenue code carried forward from years prior to 2003 which, pursuant to federal income tax laws, could not be utilized by the authority.

E. Rural Set Aside. Page 11, line 10; in New Section 5 of the bills:

> Insert "(a)" before the existing provisions of new section 5; and
>
> Add the following new paragraph (b):
>
> (b) Programs funded with proceeds of bonds issued under subsection (h) of K.S.A. 74-8905 shall not be restricted by the authority to prevent such programs from being available in all counties of the state and the authority shall adopt policies to facilitate the financing of home mortgage loans in those areas of the state which are

House Economic Development
3-11-03 Weathered Amend.
Attachment 10

not included in any metropolitan statistical area. For a period of at least 90 days following the issuance of bonds under subsection (h) of K.S.A. 74-8905, the authority shall reserve for use in financing home mortgage loans in those areas of the state which are not included in any metropolitan statistical area a minimum of twenty percent of the amount of the proceeds of such bonds that are available to finance home mortgage loans.


Investors
Principal and Interest
Money
Bonds
KDFA
Money
Trustee
$ Purchase MBS
MBS
Principal and Interest
Money
Purchase Mortgage
Lenders
Banks, Brokers,
Mortgage Originator
Mortgage
Master Servicer
$ Loan
Mortgage
$ Loan
Mortgage
$ Loan
Mortgage
Home Buyer
Home Buyer
Home Buyer
Monthly Payment