Approved: March 20, 2003
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Karin Brownlee at 8:00 a.m. on March 7, 2003 in Room 123-S of the Capitol.

All members were present except:	Senator Brungardt, absent
Committee staff present:	Mitch Rice, Revisor of Statutes Jodie Anspaugh, Secretary
Conferees appearing before the committee:	Mike Farmer, Kansas Catholic Conference Dave Holtwick, Home Builders Association of Greater Kansas City Matt Goddard, Heartland Community Bankers Association Martha Neu Smith, Kansas Manufactured Housing Association Rick Jackson, Capitol Federal Savings Chuck Stones, The Kansas Bankers Association Chris Wilson, Kansas Building Industry Association Ed Jaskinia
Others attending:	See attached list.

Chairperson Brownlee continued the hearing on SB 222. Mike Farmer, Executive Director of Kansas Catholic Conference, testified in support of the bill. (Attachment 1) This would assist buyers with down payment and closing costs, which is often the largest hurdle to overcome in becoming a homeowner.

Dave Holtwick, Home Builders Association of Greater Kansas City, testified in support of SB 222. (Attachment 2) With the authority to issue single-family mortgage revenue bonds, the Kansas Development Finance Authority could serve as the catalyst to stimulate home ownership throughout the state for low and moderate income homebuyers.

The committee asked questions of all SB 222 proponents regarding first time home buyers, down payments, and local housing programs.

Steve Weatherford, President of KDFA, distributed a proposal for an amendment to the bill. (Attachment 3) The amendment would address the concerns of those who are concerned that KDFA will compete with direct lenders.

Matt Goddard, Heartland Community Bankers Association, testified in opposition to SB 222. (Attachment 4) HCBA is concerned that this bill would put KDFA and the state of Kansas in the position of competing with taxpaying mortgage revenue lenders, directly and indirectly. KDFA would use its ability to issue tax-free bonds to establish artificially low pricing for mortgage products that taxpaying businesses will be unable to match.

Martha Neu Smith, Kansas Manufactured Housing Association, provided written testimony in opposition to SB 222. (Attachment 5)

Rick Jackson, Capitol Federal Savings, testified in opposition to SB 222. (Attachment 6) He is concerned that KDFA will give loans to those who cannot afford them and then may have to foreclose on homes and destroy the dream of homeownership for some Kansas families.

Chuck Stones, Kansas Bankers Association, testified in opposition to SB 222. (Attachment 7) He believes that Steve Weatherford does not intend to compete with private lenders, but is concerned that future administrations may. His position would be closer to neutral if the amendments offered today by Mr. Weatherford are adopted.

Chris Wilson, Director of Government Affairs for the Kansas Building Industry Association, testified in opposition to SB 222. (Attachment 8) Should this bill move forward, she suggests that the KDFA board add two or more positions for members with building expertise and also that the local areas with these programs should be allowed to continue.

Ed Jaskinia brought testimony from Robert Ebey of Lawrence. (Attachment 9) Mr. Ebey is neutral on SB 222. He has concerns about creating such a large state agency; it could become something it is not intended to be.

Senator Brownlee closed the hearing on SB 222. She announced that the committee will finish this bill at the next meeting.

The meeting was adjourned at 9:30 a.m.

The next meeting is scheduled for March 11, 2003 at 8:30 a.m. in Room 123-S.

SENATE COMMERCE COMMITTEE
GUEST LIST
DATE: Friday, March 7, 2003

NAME	REPRESENTING
Megan Chalfant	Burgess and Associates
Dave Holtwick	Home Bldrs. Assn of Greater KC.
Chris Wilson	KBIA
Martha Neu Smith	KMHA
Kevin Barone	Hein Law Firm
Chuck Stones	KBA
Mike Farmer	Kansas Catholic Conference
Brad Snapp	Sedgwick County
Mike Pepoon	Sedgwick County
Christine Reimler	KDOC&H
Joey Bahner	KDOC&H
Randy Speaker	City of Topeka
Rick Jackson	Capitol Federal
Matthew Goddard	Heartland Community Bankers Assoc.
Tammy Dishman	KDFA
Steve Kelly	KDOCH
Vaughn L. Flora	Legislator
Whitney Damron	City of Topeka

Kansas Catholic Conference

6301 ANTIOCH • MERRIAM, KANSAS 66202 • PHONE/FAX 913-722-6633 • WWW.KSCATHCONF.ORG

Senate Commerce Committee
Testimony in favor of SB 222

Madame Chairman and members of the Committee my name is Mike Farmer and I am the Executive Director of the Kansas Catholic Conference. Thank you for the opportunity to testify today in favor of SB 222.

It is my understanding that this bill would create a statewide program to serve the needs of first time home buyers, which is currently available in all states but our own. This would be accomplished through the issuance of Mortgage Revenue Bonds, which would be used for financing the development of homes for persons of low and moderate income.

In discussing this proposed legislation with other proponents, I was informed that this program would also be complimentary and not competitive with the private sector in serving both the low and moderate-income first-time homebuyer. It would also assist these buyers with down payment and closing costs, which I believe is the biggest hurdle for many individuals to overcome in becoming homeowners.

The Catholic bishops recognize that it is not their role nor within their expertise to describe the specific policies and programs to meet the needs of homeless people or families that cannot afford adequate housing. However, in February 2001, the United States Conference of Catholic Bishops did recommend 6 major goals for incorporation into a national housing policy. I believe this bill would further three of those goals:

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- Production: Creative, cost-effective, and flexible programs that will increase the supply of quality housing for low-income families, the elderly and other vulnerable people.
- Partnership: Ongoing support for effective and creative partnerships among nonprofit community groups, churches, private developers, government at all levels, and financial institutions to build and preserve affordable housing.
- Affordability: Efforts to help families obtain decent housing at costs that do not require neglect of other basic necessities.

The lack of adequate and affordable housing is an issue that the Kansas Catholic Conference is currently studying and we plan to issue a Housing White Paper with specific recommendations early next year.

This legislation appears to be an essential first step in implementing a program, which would expand the adequacy and affordability of housing in Kansas.

I ask that you please support the passage of Senate Bill 222.

HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY

Affiliated NAHB

600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

Testimony in support of SB 222
Senate Commerce Committee
March 6th, 2003

Chairwoman Brownlee and committee members:

Thank you for the opportunity to speak to you today. My name is Dave Holtwick and I am with the Home Builders Association of Greater Kansas City where I serve as Staff Vice-President of Governmental Affairs. Our association consists of over 1,000 member companies engaged in the home building industry in the Kansas City area. I am here today to speak in support of Senate Bill 222.

Our association and our members, working together with industry professionals, seek to provide housing at all price points, offering "choices" to meet the demands of consumers. Housing prices continue to rise in our area, which sounds like a good thing, but it leads to concern about how we can continue to provide "affordable" housing, no matter how you define affordable. We hear story after story about how "working class families" - teachers, firefighters, and police officers among others -- struggle to find housing they can afford in the communities where they serve.

These concerns led us to form the Housing Choices Coalition, a joint partnership among home building industry professionals and civic leaders to promote housing opportunities in our area. We know that housing is essential for a community to be successful. In fact, we believe housing is the very foundation of thriving communities.

Housing Finance Authorities (HFAs) streamline the process of securing state and federal subsidies for affordable housing development, issue mortgage revenue bonds for low and moderate-income first-time homebuyers, and leverage a variety of other funds for use in additional housing related investments within a state. It has been shown in the other 49 states that have a state housing finance authority, they help to expand the supply of safe, quality, affordable housing and I believe that would be the case for Kansas, too.

With the authority to issue single-family mortgage revenue bonds per SB 222, the Kansas Development Finance Agency (KDFA) could serve as the catalyst to stimulate home ownership throughout the state for low and moderate-income homebuyers. By working through community based lenders, KDFA could provide more equitable and adequate investment in affordable housing around the state, enhance the ability to fully leverage federal and private funding opportunities, and increase the level of mortgage revenue bond proceeds available for reinvestment in housing programs. Without this change, we are dependent upon a few counties with the state trying to administer these programs.

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For many, homeownership is part of the "American Dream" and current state regulation may preclude some from reaching that dream. SB 222 will provide tools to encourage homeownership throughout the state and help our citizens reach that dream by making additional financing options available statewide. I encourage you to support SB 222.

Thank you for your time and attention.

Senate Bill 222

03/06/03 changes to ~~House Bill No. 2395~~, Session of 2003

A. Page 4, line 32; in Section 2 of the bill, 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. Page 10, line 11; in Section 3 of the bill, 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. Page 11, line 19; in New Section 5 of the bill, add "or" following "finance,".

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03/07/03 changes to Senate Bill No. 222, Session of 2003

Page 11, line 23; in New Section 5 of the bill 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.

HEARTLAND COMMUNITY BANKERS ASSOCIATION

Matthew S. Goddard, Vice President

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mgoddard@hcbankers.com

To: Senate Committee on Commerce

From: Matt Goddard
Heartland Community Bankers Association

Date: March 7, 2003

Re: Senate Bill 222

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Committee on Commerce to express our opposition to Senate Bill 222.

The Heartland Community Bankers Association represents thrifts in Kansas, Colorado, Nebraska and Oklahoma. Our members specialize in residential mortgage lending. In 2001, Kansas thrifts made more than $2.4 billion in residential mortgage loans. For the first nine months of 2002, Kansas savings associations made more than $1.7 billion in residential mortgage loans.

Senate Bill 222 authorizes the Kansas Development Finance Authority to issue mortgage revenue bonds for financing, acquiring and originating mortgage loans. The bill also makes other changes to existing law that will expand the powers of KDFA, including:

- Removes a statutory prohibition against KDFA making construction loans directly to consumers;
- Adds moderate-income persons and families to those eligible for construction loans;
- Exempts mortgage revenue bonds from publication and notification requirements; and
- Prohibits local units of government from administering their own mortgage revenue bond programs.

HCBA is concerned that this expansion of powers will put KDFA and the State of Kansas in the position of competing with taxpaying mortgage lenders, both directly and indirectly. Although proponents of SB 222 may refer to a mortgage revenue bond program as a partnership or joint endeavor between the State and private lenders, the reality of it all is that such a program would interject state government into the middle of the mortgage marketplace. KDFA would use its ability to issue tax-free bonds to establish artificially low pricing for mortgage products that taxpaying businesses will be unable to match.

HCBA is concerned that the public policy rationales for mortgage revenue bond programs lack the same validity today that they did when they were first created. Most states that already have these programs created them when the mortgage industry was quite different than it is today. Then, interest rates were high, the secondary market was limited and funding for mortgage loans was hard to find. With mortgage rates at historical lows and a bustling secondary market providing funding, the

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historical arguments for bond programs lack validity in the current mortgage marketplace.

The financing mechanisms available to the public for home buying are much different today than they were when most state bond programs were created. Commercial banks were not allowed to become members of the Federal Home Loan Bank system until 1990. As members, institutions are eligible for advances that provide an affordable source of funding for lenders to make loans. The Topeka bank currently has **billions** of dollars in outstanding advances to Kansas lenders. In addition, Freddie Mac and Fannie Mae, government-sponsored enterprises involved with the secondary mortgage market, each funded **billions** of dollars in mortgage loans to Kansas in 2002.

Regulations from the Internal Revenue Service require that the proceeds of a mortgage bond program be used on individuals or families making no more than 115 percent of the area median income and who have not owned their place of residence within the past three years. Depending on the applicant's location, for a one or two person household the maximum eligibility amount would range from \$55,100 to \$64,500. For a household of three or more, the maximum income limit would range from \$63,365 to \$77,400. In a targeted area, the maximum income limit is 140 percent of the area median income.

The IRS currently also places restrictions on the maximum purchase price of a home purchased under the mortgage revenue bond program. However, legislation is currently being considered in Congress, backed by the national trade group for state housing agencies, that would remove the IRS regulations and simply limit the maximum purchase price to no more than three and a half times the borrower's qualifying income. If the bill becomes law, the maximum eligible home price for a family of three or more in the Kansas City area would be over \$250,000. In rural Kansas the maximum qualifying home price for a family of three or more would be just over \$220,000.

Most of the bonds issued by KDFA will be tax-exempt and therefore fall under IRS regulation. However, there is nothing in SB 222 that limits KDFA's bonding authority to only private activity bonds that fall under IRS jurisdiction. There would be no federal income or purchase price restrictions on money derived from taxable bonds.

HCBA does not believe that moderate-income Kansans are being underserved by mortgage lenders. According to 2001 data, mortgage lenders subject to the Home Mortgage Disclosure Act made over \$4.3 **billion** in mortgage loans to Kansans that year. Of that \$4.3 billion, over \$2.1 **billion**, or 48 percent, went to loan applicants making 115 percent or less of the area median income. During 2001 Kansans making 80 percent or less of the area median income, generally defined as low income, received over \$971 million in mortgage loans from HMDA lenders.

There is nothing in SB 222 to suggest that the KDFA program will target anyone beyond those customers already being served by the private sector. Since the mortgage revenue bonds must be repaid, homebuyers under the KDFA program have to meet underwriting standards similar to those already used by traditional mortgage lenders. This will create a preference within the program for the upper income echelon of moderate-income applicants.

There is a strong likelihood that if your loan application is denied now by a mortgage lender because of your credit, KDFA will also deny your loan. The website for the Missouri Housing Development Commission clearly states in its Frequently Asked Questions: "*Borrowers qualifying for loans under* *the MRB program will need to meet the same credit requirements as any other homebuyer... This is not a 'credit-repair' program.*" This furthers our concern that KDFA will compete with private lenders over consumers who don't need government assistance to qualify for a loan.

HCBA is also concerned that KDFA has indicated it will use a master-servicer to service all mortgage loans made with bond proceeds. In fact, Senate Bill 222, expressly allows KDFA to use an out-of-state mortgage servicer. Many savings and loans are still portfolio lenders. This means that when the institution makes a loan they service the loan themselves and do not sell it on the secondary market. Even when they do sell the loan, like many commercial banks, they retain the servicing rights. This ensures that the mortgage is handled locally and the local lender is there to help if the borrower needs assistance. If KDFA uses a master servicer, however, Kansans may be forced to call XYZ Mortgage Company in New York or Florida to ask questions about their monthly mortgage payment.

Despite assurances from KDFA that the agency will not originate loans, Senate Bill 222 makes three separate references to the origination of home mortgage loans. Although KDFA has said it would only purchase loans from existing mortgage lenders, the definition of "home mortgage loan" includes a mortgage "...purchased or *originated by the authority...*" This is particularly disturbing because SB 222 gives KDFA the power not only to issue bonds for the purpose of acquiring loans, as would be expected, but it also gives KDFA the power to issue bonds for *originating* home mortgage loans. Finally, KDFA would write all of its own rules and regulations in respect to home mortgage loans. The bill authorizes KDFA to establish standards and requirements applicable to the purchase of home mortgage loans or the *origination* of home mortgage loans.

Senate Bill 222 also removes a prohibition against KDFA making construction loans directly to consumers. K.S.A. 74-8904(i) currently says that except as otherwise provided in the subsection, "nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments." "Housing developments" is defined elsewhere in statute as new construction or rehabilitation of an existing house for elderly people or families of low income. In other words, nothing in current law is intended to allow KDFA to make direct loans to individuals for home construction or rehabilitation.

However, Senate Bill 222 gives KDFA the authority to also make loans for housing developments to *moderate income families*, not just those who are low income, and deletes the language that says "nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments." With this provision removed, nothing in KSA 74-8904 would expressly prohibit KDFA from making direct loans to individuals for home construction or rehabilitation.

Section 5 of SB 222 would essentially gut the Local Residential Housing Finance Law and put all mortgage revenue bond programs at the state level. This would effectively kill the current bond program administered by Sedgwick and Shawnee counties. This also means that in the future local communities would lose the ability to create their own bond programs to address specific local needs.

Another area of concern for HCBA is the composition of the KDFA board of directors. The current board members were appointed to their positions because they are familiar with bonds and finance issues. While HCBA would never question the current board's dedication, we are concerned that the current board was appointed with no consideration given to a level of expertise in the housing and mortgage industries. Colorado, Iowa, Missouri and Nebraska are all surrounding states that require at least a portion of their housing agency finance boards have a background in housing or lending issues. Nebraska, in fact, designates each of its board seats as representing a specific area of interest or expertise. If KDFA is given the expanded mortgage powers contained in SB 222, HCBA would suggest the KDFA board be expanded in recognition of its new and expanded responsibilities.

A mortgage revenue bond program will not be a panacea for every housing ill facing our state. If it were, then Kansas would be the only state in the Union with housing problems. The experiences of other states suggest that the housing problems confronting Kansas today will continue to persist even if SB 222 becomes law. The following comes from a 1998 background memorandum for an affordable housing study prepared by the North Dakota Legislative Council staff for the Commerce and Agriculture Committee:

> *Testimony received during the hearings on House Concurrent Resolution No. 3046 indicated that the resolution was introduced to address concerns regarding the availability of housing in cities that have experienced increased job growth but lack housing. The testimony indicated that state and federal housing assistance programs have generally focused on the larger cities in the state and rural areas and the smaller cities have experienced housing shortages. The resolution states that the ability of rural communities to attract private home construction at an affordable price is hampered by the differential between the construction cost and the appraised value.*

Senate Bill 222 will make KDFA one of the largest mortgage lenders in Kansas. HCBA simply does not see the need for the State of Kansas to become an active player in our state's mortgage industry. Rather than dedicating itself to serving those Kansans who are currently unable to qualify for mortgage financing, the need to payback the mortgage revenue bonds means KDFA will compete for customers who are already being served by private, tax paying businesses.

The Heartland Community Bankers Association appreciates the opportunity to share our opposition regarding Senate Bill 222 with the Senate Committee on Commerce.

KANSAS MANUFACTURED HOUSING ASSOCIATION

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WRITTEN TESTIMONY BEFORE THE SENATE COMMERCE COMMITTEE

TO: **Senator Karin Brownlee, Chairwoman And Members of the Commerce Committee**

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

DATE: **March 7, 2003**

RE: **Senate Bill 222**

Chairwoman Brownlee and members of the Senate Commerce 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 SB 222. 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 SB 222.

Our first concern is with the scope of authority Kansas Development Finance Authority (KDFA) will have under SB 222. 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 state assistance the most?

Second, SB 222 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.

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 SB 222.

Capitol Federal Savings

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PHONE (785) 235-1341

JOHN C. DICUS, CHAIRMAN
HOME OFFICE, TOPEKA, KANSAS

March 6, 2003
"Capitol Federal's 110th Year
of True Blue Service"

To: Senate Committee on Commerce

From: Rick Jackson
Capitol Federal Saving Bank

Date: March 6, 2003

Re: SB 222

Capitol Federal Savings Bank appreciates the opportunity to appear before you regarding Senate Bill 222.

In the late 1970's Congress passed the Community Reinvestment Act (CRA) to ensure that banks and savings and loans meet the credit needs of their communities. The Act was intended to discourage redlining by financial institutions in areas perceived to have a high risk of loss and where credit for home purchase or improvements is denied or restricted by onerous lending terms.

In the 1960's, the problem of redlining became the focus of many political and social activist groups. Banks and savings and loan associations were specific targets of these groups because these institutions were soliciting and retaining deposits of the people living in redlined areas.

The Home Mortgage Disclosure Act (HMDA) was enacted in December 1975 to require financial institutions to compile data on residential mortgage loan activity. Congress believed that this system of data compilation would provide an early warning to neighborhoods of disinvestment by financial institutions. Congress also believed that the data could additionally be used as evidence to support claims of fair lending violations.

The shift of toward government involvement in the elimination of redlining practices continued with the eventual enactment of the Community Reinvestment Act of 1977 (CRA). The CRA requires federal financial supervisory agencies, when examining financial institutions, to encourage the institutions to help meet the credit needs of the communities in which they are chartered, including low- and moderate-income areas. These loans must be consistent with the safe and sound operation of these institutions.

Legislative history from the House of Representatives Conference Report reveals that the CRA had as its purpose the encouragement of "more coordinated efforts between private investment and federal grants and insurance in order to increase the viability of our urban communities."

The statutory goal of increased community reinvestment is enforced in the current CRA statue through the twin levers of compliance examinations and application approvals. As seen from an economic perspective, the underlying premise of the CRA is that some sort of market breakdown exists under which qualified borrowers are willing to pay prevailing mortgage rates but are unable to secure a mortgage. This premise is no longer valid.

Many bank and thrifts meet with community groups, city and state officials, as well as non-profit organizations, to determine and assess their credit needs. Out of these assessments, jobs and housing programs have been created. Due to the tough government oversight CRA loans have become a valuable commodity.

The unmet need that many claim currently exists is with potential borrowers who may want to own a home, however their credit history makes them an unacceptable credit risk in accordance with regulatory safety and soundness standards. We do not ignore these potential customers, but we do say, "Not today." We then put our charitable resources to use by assisting non-profit housing organizations that help prepare future borrowers. These nonprofits offer home buying classes, budget classes, and maintenance classes to better prepare individuals and families for homeownership.

The only thing worse than not providing a potential borrower with the resources to purchase a house is giving a nonqualified borrower access to credit they can not repay. Despite a having a house, the homeowner may then be unable to maintain the home in a safe manner. Under Senate Bill 222, KDFA would even be put in a position of foreclosing on the home and destroying that dream of homeownership.

Because of laws like CRA, HMDA, and Fair Lending, the dream of homeownership is a very real possibility for all Kansans. Within our communities, if an individual or family wants to own a home there are adequate resources available now through public and private partnership to make that dream become reality.

KBA

The Kansas Bankers Association

To: Senate Commerce Committee
From: Chuck Stones, Senior Vice President

Re: SB 222

Madam Chair and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you regarding SB 222. The KBA has as one of its strategic priorities: to help facilitate rural economic development. Affordable housing is one of the major concerns when dealing with rural economic development.

That being said, we have some concerns with SB 222 as drafted:

<u>State competition with privately owned mortgage lenders</u>. Every day banks lay their money, their futures, and their entrepreneurial spirit on the line to enable their companies to grow and succeed. They're not afraid of risk, and they don't shy away from competition-fair competition, that is. Government should not become the competitor to businesses in the open market. We experience this kind of competition in the ag sector with the Farm Credit System. The FCB is able to use its government status to raise money in the capital markets that simply is not possible for banks. They then undercut the market by offering loan rates that banks simply cannot compete with. They "cherry pick" our best customers in violation of their charter to be a lender to higher risk ag borrowers. We don't want to see the same thing happen in this area.

<u>We are concerned that the program will end up serving only the urban counties</u>. The Governor expressed concern that the "whole state" was not being served by current housing programs. It seems that the area of focus should be on the rural parts of the State. We have seen from history that programs designed and promoted to bring economic development to the "whole state" end up helping only urban areas and not the rural parts of the State. We would like to see some assurances that, at least some of this money be earmarked for rural Kansas.

From our perspective, the problem in rural areas of the state is not the available of mortgage loans, but the availability of affordable, safe houses for people to purchase. The perfect example would be that of a small central Kansas town that needed to hire two new teachers. Normally banks are not allowed to develop real estate, but the local bank was able to utilize a Community Development program through the Office of the Comptroller of the Currency and actually build two houses in order for the school district to use as a recruitment tool. We feel the issue of safe, affordable housing in rural Kansas should be a priority.

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Will low income Kansans be included? Another of the Governors stated objectives is that "low and very low-income Kansas families" be given the opportunity to utilize this program. We are concerned that "moderate" income people will receive most of the utilization from the program. Moderate-income people are our customers. This is where the main concern with unfair competition comes in. Financial institutions are serving moderate-income individuals currently. It has been said that a program isn't feasible unless moderate-income people are included. This brings up the question of the motives for this program. If loans to moderate-income people fuel the program so low income individuals can be served, why would the State be involved in a program that makes money on one group of people to serve another group of people.

We also believe that the whole mortgage marketplace has changed in the last 10 years. Banks now have access to secondary markets and the FHLB that have opened doors to mortgage business. The Community Reinvestment Act, at the federal level, has acted to eliminate redlining and assure that the credit needs of low-income people in communities are being served. We question the real need for such a program in today's environment. Our counterparts in surrounding states express concern about the effectiveness and usefulness of programs in their states. Many states experience low utilization from the banking community, which causes us to wonder why.

In conclusion, we see the need for affordable housing in rural areas. But we question whether this program meets the stated needs based on the current marketplace. We are not trying to kill the objectives of such a program, we only want a program that will meet the stated objectives and not compete with the private marketplace.

KANSAS BUILDING INDUSTRY ASSOCIATION, INC.

ACROSS THE COUNTRY HOME BUILDERS CARE

STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION

TO THE SENATE COMMERCE COMMITTEE

SENATOR KAREN BROWNLEE, CHAIR

REGARDING S.B. 222

MARCH 7, 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 S.B. 222. 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.

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

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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 provide two or more positions on the KDFA board for members with building expertise. We would also urge you to 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 S.B. 222, and I would be glad to respond to questions.

HOUSING DEPARTMENT INFORMATION

ERO-30 - An Executive Reorganization Order to put the Housing Department into the Kansas Development Finance Authority (KDFA) from the Kansas Department of Commerce and Housing. This as explained to me would make the housing department a ONE STOP department for housing.

SB-222 - Gives the KDFA authority to issue mortgage revenue bonds for Agricultural uses, capital improvements, construction, loans, educational facilities, health care facilities, housing development, and industrial enterprises.

HB-2289 - Gives the KDFA authority to funding of out-of-state or in-state projects. This bill also gives the KDFA authority to sue and be sued, have a seal, change or alter bylaws, adopt any rules and regulations it needs, acquire, hold, and dispose of real and personal property, appoint officers, agents, and employees and their wages, borrow money and issue bonds whether or not the interest on which is subject to federal income taxation, to purchase notes or participation in notes which are secured by mortgages, make secured or unsecured loans for any purposes such as multifamily rental housing for low to moderate income as established under section 42 of the federal code, sell mortgages and security interest at public or private sale, collect fees, make and execute contracts, enter into agreements with and ACCEPT gifts, grants, loans, invest money, procure insurance, provide technical assistance, establish accounts in one or more depositories, lease, acquire, construct, sell and otherwise deal in and contract concerning ANY facilities, and form one or more subsidiary corporation.

HB-2373 - Much the same as HB2289 only not giving the KDFA as many things as HB2289 does.

HB-2395 - Much the same as HB2289 giving the KDFA authority to do 25 different things and power to do 25 different things.

Put all or even part of these bills together and they let the KDFA do the more than the Kansas State Housing Authority which failed to pass for over three years and lets the KDFA do the following:

A. Be a Banker
B. Be a Real Estate Agent
C. Be a Loan Company
D. Be a property Owner
E. Be a Landlord
E. Be a Construction Company
F. Be a Title Company
G. Be an Insurance Company
H. Open offices all over the State

Above is some of the things that the new KDFA will be able to do. Do you want to give one department this much power and be in competition with the private sector in so many areas.

Yes it will be a One Stop shopping for housing if they are allowed to do what the above bills give them authority to do. This is so much more than they can do now in the Department of Commerce and Housing.

It is agreed that the Housing Department should be separate from the Department of Commerce and Housing but should not be given so much authority and be made to work with the different agencies as listed above and not be able to do it on their own. By giving the KDFA the authority that the above bills will give them, they will become the most powerful agency in the State and in some cases may cause like companies to close their doors for lack of business.

It has been pointed out by Steve Weatherford that the department would be able to do what I have stated above but had no intentions of doing it. He was also very open for any changes that we might suggest on the bills.
QUESTION? What if Steve Weatherford changes his mind about this or he is fired or moves on, they DO have the authority to do what is described above if there is a change in people or policy.

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