

Approved:
Date 2-24-03

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairperson Senator Ruth Teichman at 9:30 a.m. on February 19, 2003 in Room 234-N of the Capitol.

All members were present except: Senator Steineger, Excused

Committee staff present: Ken Wilke, Office of the Revisor of Statutes
Dr. Bill Wolff, Kansas Legislative Research Department
Marlene Putnam, Committee Secretary

SB 75

Conferees appearing before the committee: Don Mohler Mike Taylor Ken Daniel
Matt Goddard Steve Handke Chuck Stone
Craig Meader Mark Tallman

Others attending: See attached list

SB 66

Bill Yanek Tom Krattli Mike McGrew
Dolores Dalke Rep. Doug Patterson Roy Worthington

Others attending: See attached list

Senator Teichman introduced Bill Yanek, Kansas Association of Realtors. He is an opponent for **SB 66**. The law now prevents real estate brokerages from creating and owning an affiliated title company. The Kansas Association of Realtors believe that it is time for Kansas to repeal the Kansas Affiliated Business Law because in the sixteen years of the law's existence, the Kansas title insurance landscape has changed, and that consumers will be better served if Kansas repeals its 1987 Affiliated Business Law.

(See Attachment 1)

Tom Krattli, Kansas City Title, Inc. a proponent of **SB 66**. He related that 82% of all buyers desire the opportunity to have one-stop shopping. He feels that if this bill is passed, it will increase the number of title companies, and lower consumer costs in unrestricted markets.

(See Attachment 2)

Mike McGrew, Realtor, speaking as a proponent for **SB 66**, feels like more competition and more choice mean the opportunity for better service and better prices for consumers.

(See Attachment 3)

Dolores Dalke from Hillsboro, Kansas, a real estate broker, is a proponent for **SB 66**. Those of us in small communities need the opportunity to expand our business opportunities so that we can better serve our clients as well as save them money.

(See Attachment 4)

Representative Doug Patterson, a proponent for **SB 66**, is a real estate attorney. He related that the real estate broker is by far the most important professional within the residential or commercial real estate transaction. They are aware of the anomalies, problems, issues, legal standing and other issues between buyers, sellers, and lenders. The title insurance company agent is often not aware of these and many times significant portions of the transaction are missed under the current law, all to the detriment of the buying and selling public. The real estate agent has such a grasp.

Based upon this point alone, and following the 30 years of practice in the real estate law area, I can advise you that the buyers and sellers of real estate within Kansas will be better served when licensed real estate sales professionals are given the authority to assure and provide knowledgeable title insurance services.

(See Attachment 5)

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE at 9:30 a.m. on February 19, 2003 in Room 234-N of the Capitol.

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE at 9:30 a.m. on in Room 234-N of the Capitol.

Roy Worthington, Kansas Land Title Association opposes **SB 66** (See attachment 6)
Mr. Worthington also presented written testimony (attachment 6a) from Don Sewing, Realty and Investment Corporation.

SB 75

Don Mohler, Executive Director of the League of Kansas Municipalities, a proponent for **SB 75**. We oppose statutorily imposed restrictions on banking and investment choices. (See attachment ~~7~~ 7)

Mike Taylor, City of Wichita. A proponent for **SB 75**. It will eliminate a special interest provision in Kansas law which forces local governments, including cities, counties and school districts, to deposit public funds only in so-called "hometown" banks which have a state charter. (See Attachment ~~8~~ 8)

Kenneth Daniel, Midway Sale & Distributing, Inc. Mr. Daniel is an opponent of **SB 75**. He is the founder, chairman, and CEO. Not only do Kansas banks help small businesses, almost all of them are small businesses. And, they pay taxes. It does not make sense to starve the cash cow by shipping our money out-of-state. (See Attachment ~~9~~ 9)

Matthew Goddard, Heartland Community Bankers Association. He is an opponent of **SB 75**. The bill removes the requirement in Kansas law that a public funds depository must have a main or branch office in the county in which the municipal corporation is located. In place of that requirement, the bill simply mandates that a public funds depository must have an office in Kansas. This would in turn allow any bank to open up a single branch in a city in Kansas and bid on public funds in all 105 counties. (See Attachment ~~10~~ 10)

Steve Handke, CEO Union Bank of Everest. He represents the Community Bankers Association of Kansas. They are opponents of **SB 75**. (See Attachment ~~11~~ 11)

Chuck Stone, Kansas Bankers Assoc., opponent of **SB 75**. Kansas taxpayers money should stay in Kansas for the benefit of the taxpayers. (See Attachment ~~12~~ 12)

Craig Meader, President of the Kansas Bankers Association. Opponent to **SB 75**. It appears that we have had a system that worked for Kansas for 65 plus years. We believe it is very shorted to open the door and have the Kansas capital have the potential of being siphoned off based on some unsubstantiated hope that an out of state bank would pay more than a Kansas bank. (See Attachment ~~13~~ 13)

Mark Tallman, Kansas Association of School Boards. Proponent of **SB 75**. (See Attachment ~~14~~ 14)

Written Testimony from Sue, Hack, City of Lawrence. (See attachment ~~15~~ 15)

Meeting Adjourned

Additional Attachments: #16 - Joe Yager, Lawrence; #17 - Patricia Holden, Kansas Bank of America; #18 - Diane Gjerstad, Wichita Public Schools; #19 - Randy Allen, Kansas Association of Counties; #20 - Donald Seifert, City of Olathe; #21 - Larry Tucker, Lyon County; #22 - Danielle Noe, Johnson County; #23 - Eric Sartorius, City of Overland Park.

**SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
GUEST LIST**

DATE: 2-19-03

NAME	REPRESENTING
Erik Sartorius	City of Overland Park
Ron GACHES	GBBA
Chuck Stokes	KBA
Craig Meadu	KBA
Steve Handke	Union State Bank of Everest
Ken DANIEL	MIDWAY WHOLESALERS IOWA
BILL YANEK	Ks Assn of Realtors
DELORES DALKE	Ks Assn of Realtors
TOM KRATTLI	Ks Assn of Realtors
KATHY DAMRON	Ks Assn of Realtors
Danielle Hae	Johnson County
Don Seifert	City of Olathe
MIKE Taylor	City of Wichita
John Beerten	KFI



TO: SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

FROM: Bill Yanek, Director of Governmental Relations

DATE: February 19, 2003

RE: Senate Bill 66 – Repealing the 1987 Kansas Affiliated Business Law

K.S.A. § 40-2404(14) (e) and (f), The Kansas Controlled Business Law, prohibits a title agency (in a county with a population of more than 10,000) from doing business with a consumer if that would cause the agency to derive more than 20% of its revenue from a controlled business source. Controlled business sources are entities that have an ownership interest in the agency.

Impact on REALTORS®: The law prevents real estate brokerages from creating and owning an affiliated title company. The 20% limitation is difficult, if not impossible to meet by requiring a controlled business title company to get 80% of its business from its competitors.

Impact on consumers: Increasingly, consumers are demanding one stop shopping in real estate transactions. Affiliated business arrangements allow for one-stop shopping. Affiliated business arrangements also facilitate the bundling of services and providing of discounts to consumers.

The Kansas Association of REALTORS® believes that it is time for Kansas to repeal the Kansas Affiliated Business Law because in the sixteen years of the law's existence, the Kansas title insurance landscape has drastically changed.

The law was purportedly enacted to “protect consumers” and “prevent vertical integration”. However, HUD, the Kansas Department of Insurance, and the Kansas Title Industry have set in motion a chain of events rendering the law useless in achieving its initial purposes.

Instead of protecting consumers and preventing vertical integration in the real estate industry, the law acts as a protectionist bar to increasing competition in the title industry and deprives Kansas residents the benefit of HUD enacted consumer protections.

“Consumer protection circa 1987” – Federal law has changed to enhance consumer protection.

The timeline below depicts the changes to affiliated business consumer protections since the Kansas Affiliated Business Law passed in 1987. Current Kansas Law remains the 1987 version.



785.267.3610
VOICE

800.366.
TOLL F

Senate FI & I Committee

Meeting Date: 2-19-03

Attachment No.: 1

3644 SW Burlingame Rd
Topeka, Kansas 66611
w.kansasrealtor.com

Consumer Protection Enhanced

1987 – Kansas passes its controlled business limitation.

1992 – HUD promulgates controlled business arrangement (CBA) disclosure form (**these forms must be provided prior to any referral to the controlled business title agency**).

1996 – Congress requires CBA form disclosure be acknowledged in writing.

1996 – HUD strengthens regulation of conditions under which controlled business arrangements are permissible.

2001 Kansas Department of Insurance rules that federal depository institutions are not subject to the statute.

Since 1987 - “Preventing Vertical Integration” - The Kansas title industry is currently home to a number of national underwriters.

Chicago Title Insurance Company (Illinois), Commonwealth Land Title Insurance Company (Virginia), The First American Corporation (California), and Stewart Title Guaranty Company (Texas) are examples of large national underwriters currently doing business in Kansas.

The First American Corporation is a multi-billion dollar company that currently engages in affiliated title businesses across the country. First American is a strong presence in the Kansas title industry. As the attached map indicates, First American owns and underwrites in counties across Kansas.

With the presence of such national companies and the entrance of banks into the affiliated title marketplace: what vertical integration is being prevented?

Isolating Kansas Real Estate Brokerages

The Kansas 1987 Affiliated Business Law currently applies only to “producers of business”, namely real estate brokerages and builders, in counties with a population of more than 10,000.

Bank-Title Affiliated Title Businesses are now operating in at least Riley and Cowley counties.

Nationally, less than 10 states still prohibit affiliated title businesses. Missouri, Nebraska, Colorado, and Oklahoma do not prohibit affiliated title businesses.

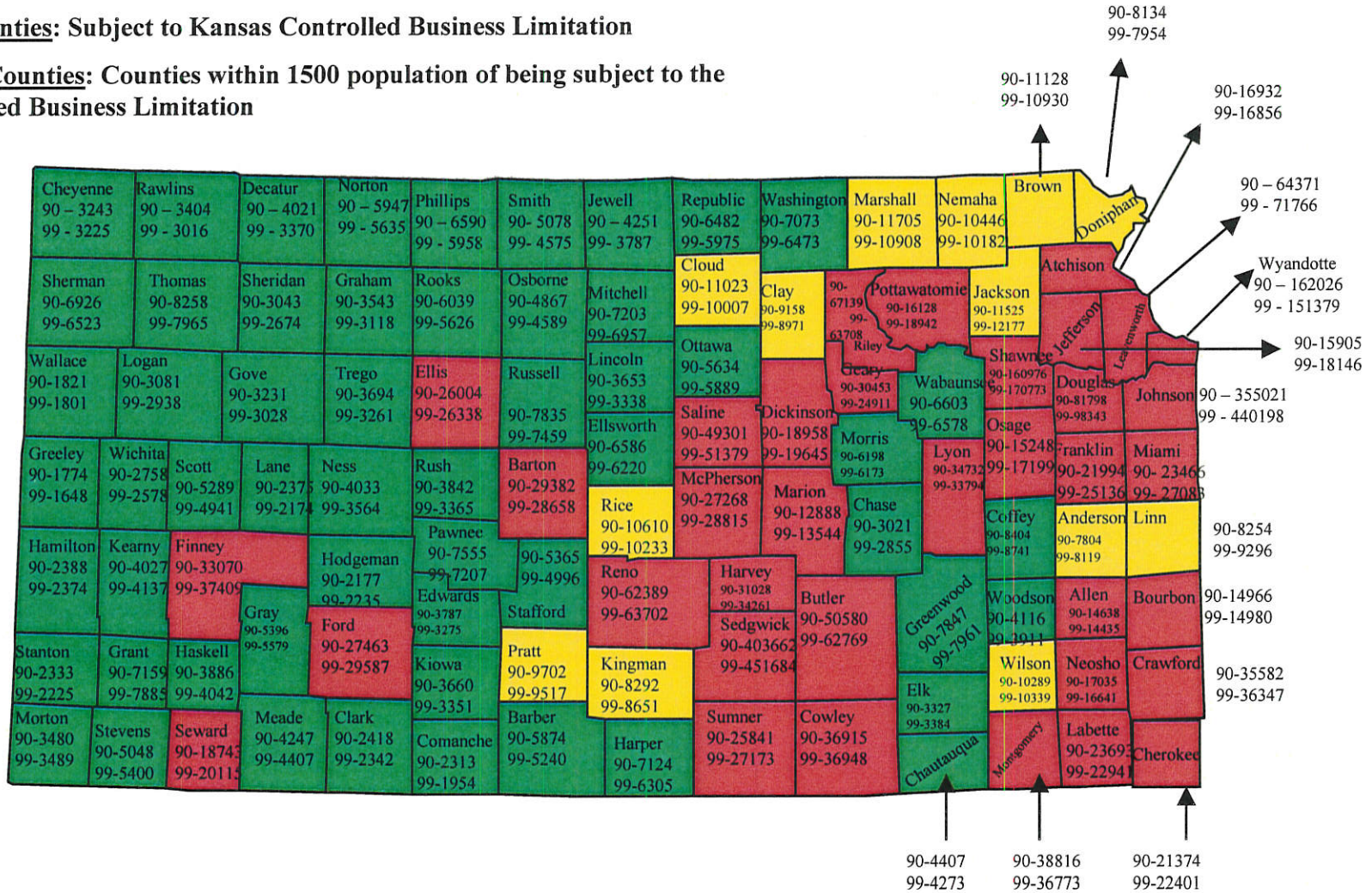
The Kansas Association of REALTORS® believes that consumers will be better served, the title industry will be made more competitive, and brokerages will escape marketplace isolation if Kansas repeals its 1987 Affiliated Business Law.

We strongly urge you to pass favorably Senate Bill 66.

Green Counties: No Controlled Business Limitation

Red Counties: Subject to Kansas Controlled Business Limitation

Yellow Counties: Counties within 1500 population of being subject to the Controlled Business Limitation



1-3

Attachment
1a

HUD affiliated business disclosure statement format

To:
From:
Property:
Date:

This is to give you notice that [referring party] has a business relationship with [settlement services providers(s)]. [Describe the nature of the relationship between the referring party and the providers(s), including percentage of ownership interest, if applicable.] Because of this relationship, this referral may provide [referring party] a financial or other benefit.

[A.] Set forth below is the estimated charge or range of charges for the settlement services listed. You are NOT required to use the listed provider(s) as a condition for [settlement of your loan on] [or] [purchase, sale, or refinance of] the subject property. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

[provider and settlement service] [charge or range of charges]

[B.] Set forth below is the estimated charge or range of charges for the settlement services of an attorney, credit reporting agency, or real estate appraiser that we, as your lender, will require you to use, as a condition of your loan on this property, to represent our interests in the transaction.

[provider and settlement service][charge or range of charges]

ACKNOWLEDGMENT

I/we have read this disclosure form, and understand that [referring party] is referring me/us to purchase the above-described settlement service(s) and may receive a financial or other benefit as the result of this referral.

.....[signature]

[INSTRUCTIONS TO PREPARER:] [Use paragraph A for referrals other than those by a lender to an attorney, a credit reporting agency, or a real estate appraiser that a lender is requiring a borrower to use to represent the lender's interests in the transaction. Use paragraph B for those referrals to an attorney, credit reporting agency, or real estate appraiser that a lender is requiring a borrower to use to represent the lender's interests in the transaction. When applicable, use both paragraphs. Specific timing rules for delivery of the affiliated business disclosure statement are set forth in 24 CFR 3500.15(b)(1) of Regulation X.]

These INSTRUCTIONS TO PREPARERS should not appear on the statement.

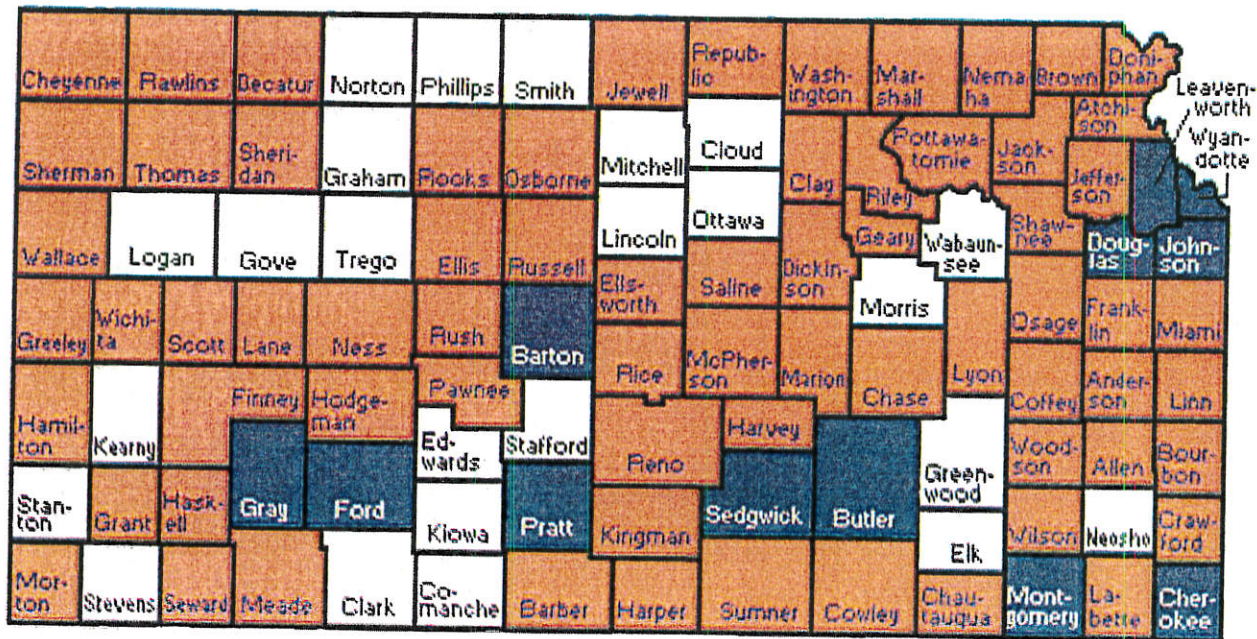
[61 FR 58477, Nov 15, 1996]

The First American Corporation in Kansas

1-5

BLUE = Company owned agencies located in county

RED = First American underwriter located in county



Kansas County Map

1(e)

Date: February 19, 2003

To: Senate Financial Institutions and Insurance Committee

From: Tom Krattli

Re: Senate Bill #66

Thank you for the opportunity to testify in favor of Senate Bill #66. This is an important bill for Kansas Consumers. Your YES vote for Senate Bill #66, allowing for affiliated title companies, will:

- Allow Realtors the opportunity to provide “one-stop shopping” for the purchase of residential real estate; and
- Increase competition for title insurance; benefiting consumers with lower costs and increased levels of service.

It is important to note that the federal government has provided consumer protection in affiliated business transactions through the Real Estate Settlement and Procedures Act (RESPA). The act requires full disclosure of affiliated business relationships. Among it’s required disclosures are the ownership of the affiliated title company, the cost of the services provided by the affiliated title company, and the prohibition of sales contingent upon the use of the affiliated title company.

One-stop Shopping

A 2002 survey conducted by Harris Interactive, the parent company of the Harris Poll, indicated that 82% of all buyers desire the opportunity to have one-stop shopping. This is a significant increase from the 1999 National Association of Realtors survey that showed 58% of buyers were interested in “one-stop shopping” shopping. Convenience and simplicity were cited as the two important components of this trend.

Increased Competition

Opponents argue that Senate Bill #66 will decrease competition - forcing consumers to pay more for title insurance. To the contrary, independent studies reveal an *increase* in the number of title companies and *lower consumer costs* in unrestricted markets.

Page Two
February 19, 2003

In 1992 Minnesota was considering a restriction on affiliated title businesses. Anton Financial Economics, Inc., an independent research company, was employed to determine the impact to Minnesota of such a law. Since Kansas had recently adopted a prohibition on affiliated title companies, their study involved a comparison of the unrestricted Minneapolis-St. Paul market and recently controlled business environment in Wichita, Kansas. The study resulted in the following conclusions:

- The Twin Cities market supported healthy competition. Expanding from eight title companies in 1981, before the emergence of affiliated business, to nearly one hundred sixty title companies in 1992 - half of which were affiliated businesses. Today there are over one hundred fifty title companies in the Twin Cities area.
- Consumers in the Twin Cities paid less for title services through an affiliated title company than a nonaffiliated title company.
- During the three years following the implementation of controlled business regulation in Kansas, the two largest title companies in Wichita raised their rates from 50% to 60%, depending on services offered.

Needless to say, Minnesota chose not to enact restrictions against affiliated title companies.

In 1994 Lexecon, Inc. analyzed title and closing costs on real estate sales transactions involving both affiliated and unaffiliated title companies in seven states. Their conclusion: Costs charged to consumers by affiliated title companies *were less than* those of nonaffiliated companies.

The findings of these independent studies were realized in Kansas last year, when federal bank legislation prohibited any restriction of title companies affiliated with the banking industry. As a result, Kansas banks formed affiliated title companies in several cities and counties in 2002. Consumers in Riley County, the seventh largest county in Kansas, previously served by only one title company, now have a choice between two title companies. Additionally, the benefits of unrestricted title markets are apparent in the Greater Kansas City area where Missouri law does not restrict affiliated businesses from the title insurance industry. My company, Kansas City Title, is an affiliated title company owned by Reece & Nichols and began business in Missouri in June 2000. Our charges to a consumer on a \$150,000 home in Jackson or Cass Counties Missouri, including title policy and closing services, range from 3% to 10% less than the three largest title companies in that market. All of the top three title companies are nonaffiliated.

Consumer Protection

Opponents also suggest that affiliated title companies are anti-competitive, implying a consumer may be "forced" to use the affiliated title company, unaware that they can shop for the best price and service. Affiliated title companies are required by federal law (RESPA) to disclose:

- The referring real estate company has ownership in the title company and may profit from the use the title company.
- The use of the affiliated title company is not a condition for the purchase, sale, or refinance of the subject property.
- Other settlement companies (nonaffiliated title companies) provide similar services and the consumer is free to shop to make sure they are receiving the best services and the best rate for these services.
- The cost of all services and fees charged by the affiliated title company.

It should be noted that nonaffiliated title companies are not required to make such a disclosure when they receive a referral from a Realtor. I have included a copy of our current disclosure for you review.

Thank you for the opportunity to appear before this committee. This is an important issue and I ask for your support of Senate Bill #66.

Sincerely,



J. Thomas Krattli
President, Kansas City Title

Enclosure



NOTICE OF REAL ESTATE BROKERAGE AND TITLE INSURANCE RELATIONSHIP

(Affiliated Business Disclosure)

Reece and Nichols Realtors is acting as a Real Estate Broker involving the undersigned sellers. Kansas City Title, Inc. – An Affiliated Company - may be performing services for the undersigned seller for closing and title services.

YOU ARE HEREBY NOTIFIED THAT REECE & NICHOLS REALTORS OWNS KANSAS CITY TITLE, INC.

Kansas City Title, Inc. will, for normal compensation paid directly to Kansas City Title, Inc., provide title insurance and closing services in connection with the sale of your home. The normal range of fees you may expect to pay for closing services is \$225-\$275, and \$50-\$100 for document preparation. Please see the Kansas City Title, Inc. rate chart on the back of this disclosure for the cost of title insurance.

Reece & Nichols Realtors sincerely recommends Kansas City Title, Inc. because they will provide quality service, convenience to you and competitive title and closing costs. It is important that you understand that Reece & Nichols Realtors may benefit financially from your choice of Kansas City Title, Inc. *However, the sales associate of Reece & Nichols Realtors will receive no financial benefit from your choice of Kansas City Title, Inc.*

You are under no obligation to use Kansas City Title, Inc. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

I (we) hereby acknowledge receipt of this notice and understand its contents.

Date: _____

Seller

Seller

January, 2002

~~_____~~
2-4

Insurance Rates For



<u>Amount of Insurance</u>	<u>Original Issue Rate</u>	<u>Rate if Prior Policy Furnished</u>
50,000 or less	\$310.00	\$186.00
50,001 to 55,000	\$330.00	\$198.00
55,001 to 60,000	\$350.00	\$210.00
60,001 to 65,000	\$370.00	\$222.00
65,001 to 70,000	\$390.00	\$234.00
70,001 to 75,000	\$410.00	\$246.00
75,001 to 80,000	\$425.00	\$255.00
80,001 to 85,000	\$440.00	\$264.00
85,001 to 90,000	\$455.00	\$273.00
90,001 to 95,000	\$470.00	\$282.00
95,001 to 100,000	\$485.00	\$291.00
100,001 to 110,000	\$505.00	\$303.00
110,001 to 120,000	\$525.00	\$315.00
120,001 to 130,000	\$545.00	\$327.00
130,001 to 140,000	\$565.00	\$339.00
140,001 to 150,000	\$585.00	\$351.00
150,001 to 160,000	\$605.00	\$363.00
160,001 to 170,000	\$625.00	\$375.00
170,001 to 180,000	\$645.00	\$387.00
180,001 to 190,000	\$665.00	\$399.00
190,001 to 200,000	\$685.00	\$411.00
200,001 to \$210,000	\$705.00	\$423.00
210,001 to 220,000	\$725.00	\$435.00
220,001 to 230,000	\$745.00	\$447.00

<u>Amount of Insurance</u>	<u>Original Issue Rate</u>	<u>Rate if Prior Policy Furnished</u>
230,001 to 240,000	\$765.00	\$459.00
240,001 to 250,000	\$785.00	\$471.00
250,001 to 275,000	\$835.00	\$501.00
275,001 to 300,000	\$885.00	\$531.00
300,001 to 325,000	\$935.00	\$561.00
325,001 to 350,000	\$985.00	\$591.00
350,001 to 375,000	\$1,035.00	\$621.00
375,001 to 400,000	\$1,085.00	\$651.00
400,001 to 425,000	\$1,135.00	\$681.00
425,001 to 450,000	\$1,185.00	\$711.00
450,001 to 475,000	\$1,235.00	\$741.00
475,001 to 500,000	\$1,285.00	\$771.00
500,001 to 525,000	\$1,310.00	\$786.00
525,001 to 550,000	\$1,335.00	\$801.00
550,001 to 575,000	\$1,360.00	\$816.00
575,001 to 600,000	\$1,385.00	\$831.00
600,001 to 625,000	\$1,410.00	\$846.00
625,001 to 650,000	\$1,435.00	\$861.00
650,001 to 675,000	\$1,460.00	\$876.00
675,001 to 700,000	\$1,485.00	\$891.00
700,001 to 725,000	\$1,510.00	\$906.00
725,001 to 750,000	\$1,535.00	\$921.00

* For policies over \$750,000, rates will be furnished upon request.

An affiliate of Reece & Nichols Realtors
 A complete real estate services company
 focused on quality service and convenience to our customers.
www.reeceandnichols.com

TO: SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
FROM: Mike McGrew
DATE: February 19, 2003
RE: Senate Bill 66 – Repealing the Kansas Affiliated Business Law

My name is Mike McGrew. I am a partner and officer in a 65 agent company located in Lawrence. We consider our primary market area to be Lawrence and Douglas County. Lawrence has about 80,000 people with about 100,000 total in the county. We do approximately 1/3 of the real estate business in our market.

While the Affiliated Business Law is often associated with large market areas such as Johnson and Wyandotte Counties, mid-sized markets like Lawrence are subject to the law as well.

Increasingly, our company's customers and clients are demanding the efficiency and convenience of one stop shopping in real estate transactions. Affiliated business arrangements allow for one-stop shopping, facilitate the bundling of services, and provide discounts to consumers.

Our company has recently begun a joint venture with a local mortgage company. Our agents and customers are under no obligation to use our in house lender. The federal RESPA regulations prohibit us from offering any financial incentives to our agents. We hope to earn their business by providing convenient, superior service at competitive interest rates.

Many of our competitors own or have an interest in property insurance businesses. Many are involved in property management, land development or business brokerage.

Like real estate companies of all sizes, we continue to look for ways to cover our ever increasing costs of doing business. Making a profit has become more difficult than ever. We need to have the freedom and flexibility to provide the products and services that customers want. Services that can be provided by everyone EXCEPT state licensed real estate agents.

More competition and more choices mean the opportunity for better service and better prices for consumers.

Mid-sized brokerages should have the option of offering affiliated title services.

I urge the committee to pass Senate Bill 66.

SEN. FI → I
2-19-03
ATTACHMENT 3
Attachment #13
35

February 19, 2003

My name is Delores Dalke from Hillsboro, I have been a Real Estate Broker since 1979, and I am currently serving as President of the Kansas Association of Realtors. I am here to talk to you about Senate Bill # 66 regarding Affiliated Businesses.

Hillsboro is a town of 3,000 population in Marion County with a population of 13,000.

We have one title insurance company in our county and I will be the first to say they do an excellent job in providing title insurance for those who wish to buy or sell property or need to mortgage their property. I believe there are quite a number of rural areas in our State that have only one title company. What this situation does is create a monopoly for those offices. This is not necessarily in the best interest of the consumer. I know that our State leaders believed they were assisting the public when the bill to control affiliated businesses was passed, which effectively stopped real estate brokers from having ownership interest in title companies.

Senate FI & I Committee

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Page 2, February 19, 2003

I am here to point out that this bill was not in the interest of the consumer. For instance, I did my own telephone survey as to the cost of title insurance in several areas.

I focused on a home sale of \$60,000, which is a very affordable home to a low to moderate income home buyer in our area.

I found that the cost of providing an owner's title policy on this sale in our county is \$375. I reviewed a sale of the same price in one neighboring county from a few years ago at a time that county had only one title company and the cost was the same. Since that time, a second company has opened and the quote from the competing company was \$301.00, a savings of 20%. WHY ? Competition!!!

Why must the consumers in small counties suffer because there's only one company? If restrictions were erased, perhaps some of us who work in the area could invest in this industry and provide the consumer a choice and a chance to save money when they need title work.

4-2

If we are going to keep competition out of this industry, what will happen should the insurance agents come to you and say, "don't let Real Estate Brokers own insurance agencies....." It isn't fair!!!! What if a group of Home Builders come in and say, "Don't let Real Estate Brokers develop property....." This situation could go on and on.....

I believe if those of you that represent smaller population areas of our State will help me verify that title company owners are involved in many other business, such as land development, and, in quite a number of communities, these same people are also acting as Mortgage Broker, originating mortgage loans,, as well as doing closings for a fee, so that buyers needing mortgages can have "one stop shopping"!!!! I have no problem with this..... It is the American Way that we look for opportunities and become involved. Why are Real Estate Brokers singled out?

Those of us in small communities need the opportunity to expand our business opportunities so that we can better serve our clients as well as save them money.

Please consider that when government protects one business from competition, the consumer is the one who suffers.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Delores Dalke".

Delores Dalke, CRB, CRS, GRI
Broker

2-19-03

HOUSE OF
REPRESENTATIVESDOUG PATTERSON
MAJORITY WHIP

REPRESENTATIVE
FIVE, 28TH DISTRICT
JOHNSON COUNTY
12712 EL MONTE
LEAWOOD, KANSAS 66209
(913) 897-6905

ROOM 174-W
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 291-3500

VICE-CHAIR: JUDICIARY
MEMBER: COMMERCE AND LABOR
HEALTH AND HUMAN SERVICES
JT. COMMITTEE ON STATE
INDIAN AFFAIRS
HOUSE RULES COMMITTEE

February 19, 2003

Senator Ruth Teichman
Chair, Financial Institutions and Insurance Committee
State Capital Building
Topeka Kansas 66612

Dear Madam Chair and members of the Senate Financial Institutions and Insurance Committee,

As a Legislator as well as a real estate attorney, I stand in support of the Senate Bill 66.

The issues involved in this bill are not that complicated. While there have been questions as to the legality of the Kansas Controlled Business Act, and while I have requested an Attorney General's opinion on the legality of the same, the elimination of the restrictions as proposed by Senate bill 66 is simply the right thing to do from a public policy point of view.

The issue involves whether or not real estate brokers should be able to provide comprehensive title insurance services as a part of their service to sellers, lenders and buyers of property. At the present time, brokers can sell title insurance in Missouri and throughout Kansas, lenders and financial institutions can sell title insurance. In addition, title agents of title companies can and will continue to sell title insurance. The anomaly of this situation is that the one professional, the real estate agent, more capable and competent among all of the others involved in a real estate transaction, is not authorized to provide the most singularly significant and important portion of a real estate transaction, ie., the title insurance policy.

The real estate broker is by far the most important and significant professional within the residential or commercial real estate transaction. They are aware of the anomalies, problems, issues, legal standing and other issues between buyers, sellers and lenders. The title insurance company agent is often not aware of these and many times significant portions of the transaction are missed under the current law, all to the detriment of the buying and selling public. Many of my clients have suffered significant

Senate FI & I Committee

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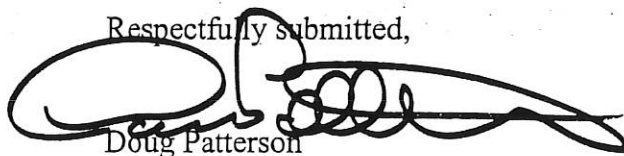
Attachment No.: 5

Senator Ruth Teichman
February 19, 2003
Page 2

losses as a result of the title agent not having a grasp of the entire transaction - millions of dollars. The real estate agent has such a grasp.

Based upon this point alone, and following the 30 years of practice in the real estate law area, I can advise you that the buyers and sellers of real estate within Kansas will be better served and their interests protected more when licensed real estate sales professionals are given the authority to assure and provide knowledgeable title insurance services to their clients and our constituents.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Doug Patterson", with a large, stylized flourish extending to the right.

Doug Patterson

KANSAS LAND TITLE ASSOCIATION
434 N. MAIN
WICHITA, KS 67202

PRESENTATION TO SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

RE: Testimony in Opposition to Senate Bill 66

DATE: February 19, 2003

THE KANSAS LAND TITLE ASSOCIATION OPPOSES SENATE BILL 66 FOR THE
FOLLOWING REASONS:

**FUNDAMENTAL ISSUE: DOES OWNERSHIP OF TITLE COMPANIES BY REAL
ESTATE BROKERS CREATE PUBLIC POLICY CONCERNS THAT NECESSSITATE
STATE REGULATION BEYOND THAT PROVIDED BY FEDERAL LAW.**

1. The current law, K.S.A. 40-2404 (14) (e) and (f), was passed in 1989 and its provisions are derived from Model Title Code approved by the National Association of Insurance Commissioners. The current law is the result of a 1988 study group formed by the Kansas Department of Insurance to study a significant problem involving controlled business title insurance companies existing at the time which were detrimental to the healthy functioning of competition in the title insurance industry.

2. The current law is an extension of the federal Real Estate Settlement Procedures Act (RESPA) passed in 1974 to help eliminate abuses in the real estate settlement services industry - specifically prohibiting the payment or receipt of fees, kickbacks, rebates or any thing of value for the referral of business. **The federal law clearly allows the states to be more restrictive in the regulation of title insurance and real estate settlement services than the federal law.**

3. The rules and regulations of RESPA dealing with controlled business indicate **that the Secretary of HUD may not determine that a state law or regulation is inconsistent with any provision of RESPA if the Secretary determines that such a law or regulation gives greater protection to the consumer, and further, that the Secretary may not construe those provisions that impose more stringent limitations on controlled business arrangements as inconsistent with RESPA so long as they give more protection to consumers and/or competition.**

Attachment - 6
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ATTACHMENT 6

Kansas controlled business law provides more protection than RESPA. For example, RESPA does not apply to loans on property of 25 acres or more and exempts loans primarily for business, commercial or agricultural purposes, while there is no such exemption under the Kansas law.

Another example is that RESPA allows an employer to pay an employee for a referral activity. Therefore a real estate brokerage company can provide a financial inducement to an office supervisor to refer business to the broker's captive title company, but if an independent title company tried to give that supervisor a referral fee to obtain business, the independent title company could be subject to prosecution for violating RESPA. The Kansas law prevents such arrangements.

4. In 1991 the **law was upheld by the Kansas Supreme Court** - court indicated that "purpose of Unfair Trade Practices Act is to prevent unfair methods of competition and unfair or deceptive acts or practices in the business of insurance." The "**purpose of the law is to stimulate competition by decreasing vertical integration between producers of title business and title insurers.**"

5. I think it is significant that the realtors have introduced federal legislation to keep banks from entering the real estate brokerage business. The realtors are using the argument that "conflicts of interest" and "unfair competitive environments" will result if banks are allowed to sell real estate. The realtors further argue that competition would be reduced as banks gobble up real estate companies, and that the cost to consumers would unnecessarily increase. Apparently the realtors do not want banks in their business, but have no problem entering the title business without restriction. (See Exhibit "A")

THE KANSAS LAND TITLE ASSOCIATION FIRMLY BELIEVES THAT REGULATION IS NECESSARY WHEN A CONFIDENTIAL RELATIONSHIP EXISTS BETWEEN 2 PARTIES AND IN THAT RELATIONSHIP 1 OF THE PARTIES HAS THE ABILITY TO REFER THE OTHER PARTY TO PURCHASE A PRODUCT OR SERVICES FROM A COMPANY IN WHICH THE REFERRING PARTY HAS A FINANCIAL INTEREST AND STANDS TO GAIN A FINANCIAL RETURN AS THE RESULT OF THE REFERRAL.

THE ONLY WAY TO KEEP THE TITLE INSURANCE INDUSTRY COMPETITIVE AND CONSUMER FRIENDLY IS TO HAVE A RESTRICTION ON THE AMOUNT OF CONTROLLED BUSINESS AN AFFILIATED TITLE INSURANCE AGENCY CAN OBTAIN, THEREBY REQUIRING THAT ALL TITLE INSURANCE COMPANIES COMPETE FOR PUBLIC BUSINESS.

THE NEED FOR SUCH REGULATION IS TWO-FOLD:

Consumer Issues:

1. The need for the present restriction on controlled business is due to the following unique nature of title insurance, i.e.:

a. **in a controlled business marketplace, the consumer loses the ability to obtain the disinterested judgment of the real estate professional;** the consumer does not understand that title insurance can be shopped around for the best price and service, like property insurance, life insurance and the purchases of other consumer goods;

b. the placement of title insurance services is made by the real estate agent, who is in a **"fiduciary relationship" with the consumer and to whom the consumer looks for disinterested advice.** The duties of a realtor under existing license law are "to promote the interests of the client with the utmost good faith, loyalty and fidelity." **If realtor has a financial incentive to direct his client's title business to his broker's title company, is there a conflict of interest?**

2. It is naïve to think that a real estate broker, owning a title insurance agency, cannot offer incentives to its agents to use the captive company. Attached as **Exhibit "B"** are examples of how a real estate broker "induces" an independent contractor/real estate agent, to use the captive title company.

3. In a free and competitive consumer-oriented market, prices are restrained by competition; however, there is no incentive for the controlled business company to reduce rates or to improve policy coverage or service in order to attract business, because its business is "guaranteed" as a result of referrals. If controlled business title insurance companies only service "captured consumers" and are not competing with other title companies for business, then the consumer will be subject to non-competitive prices. **Controlled business companies will eliminate price and service from the equation when selecting a title company.**

4. Significant that present law was not passed as a stand-alone statute to keep realtors out of title business, but as part of Unfair Trade Practices Act.

5. The sale of title insurance by affiliated business companies is recognized in Kansas as potentially involving methods of unfair competition or unfair or deceptive acts or practices.

a. The 1989 minutes of the Senate Financial Institutions and Insurance Committee reveal express statements by legislators - "problem with controlled business is that it is anti-competitive - the producers of title business try to steer customers to the title company they own and they have no incentive to look out for the consumer."

b. Dick Brock, of the Kansas Insurance Department testified in favor of bill on March 2, 1989 and indicated that the Insurance Department had been studying complaints about persons offering or receiving special inducements, rebates and other advantages in the sale or placement of title insurance that is not generally available to others similarly situated, causing increased cost to the consumer.

6. Many federal and state studies over the years have concluded that the growth of controlled business arrangements has created serious competitive and conflict of interest problems that adversely effect the interests of consumers. An example of 2 those studies are set forth below:

- The U.S. Department of Justice in a 1977 study concluded that while RESPA closed the front door to rebates and kickbacks, **the affiliated business arrangement may ultimately cause a problem worse than outright kickbacks.** Instead of receiving a kickback, the realtor will receive a corporate dividend and reverse competition will result since the affiliate's decision as to whom it chooses to underwrite its policies would be based on how much it would receive as compensation, not how much the policy will cost the consumer;

- A 1981 study performed for the Department of Housing and Urban Development by Peat, Marwick, Mitchell & Company, stated the following: "... a fundamental characteristic, generally referred to as **reverse competition**, serves to create a market in which traditional economic principles of a competitive market do not apply. **Since the consumer has no significant role in the selection process, there is little incentive to keep prices low or otherwise be concerned about the consumer....**"

7. The realtors argue that federal disclosure laws, which require the "disclosure" of the relationship between the realtor and the "controlled business title insurance company" are sufficient to protect the consumer. To believe that disclosures will protect the consumer is naïve indeed. I would argue that consumers are not sophisticated enough to understand the consequences of

controlled business in the title insurance industry and therefore a mere disclosure of the financial relationship between the realtor and the "controlled business title insurance company" is meaningless to protect the consumer. The consumer tends to rely on the recommendations or referrals of real estate professionals in the transaction. With all the forms required to be signed by sellers and buyers of real estate, another disclosure form will be meaningless to the consumer.

With regard to financial institutions having affiliated relationships with companies involved in the real estate settlement process (i.e. appraisal firms, tax service companies, credit bureaus, surveyors, etc), most disclosures are normally given at the settlement table, which does not give consumer an opportunity to shop settlement fees even if compelled to do so.

8. Minnesota, a state having no restrictions on controlled business, has seen tremendous acceleration in title insurance and settlement service costs in the Minneapolis area since 1987, the year after two large brokerage companies entered the title business. **Such costs in Minnesota have increased 35% from 1987 to 2002, compared to a 3% increase in Kansas City during the same time period. (See Exhibit "C")**

9. "One Stop Shopping", which is talked about so much in the real estate settlement industry, really results in "No Shopping" because the consumer is directed to the controlled business title company by the realtor having a financial incentive to do so. Because the title insurance and settlement services are only a small part of a complicated and involved real estate sale process, which is not well understood by the consumer, the consumer defers to the recommendation of the realtor. **(see Exhibit "D" attached which is a Commentary from April 15, 2000 Condell Private Letter, and which refutes the benefits to the consumer of "One Stop Shopping.")**

Competition issues:

1. The proponents of the bill indicate that the present law restricts competition and free enterprise.

THE IMPORTANT CONCEPT TO UNDERSTAND IS THAT CONTROLLED BUSINESS COMPANIES DO NOT COMPETE WITH ONE ANOTHER, THEREFORE THE NUMBER OF COMPANIES DOES NOT EQUATE TO COMPETITION.

- lots of competition now between title companies - 23 companies doing business in Johnson Co., 1 of which is a bank controlled business company; 10 companies in Leavenworth Co.; 13 companies in Sedgwick Co., 1 of which is a bank controlled business company; 4 companies Shawnee Co.; 3 companies in Riley County, 1 of which is a joint venture with a bank; 15 companies in Wyandotte Co.

- according to latest Kansas Land Title Association directory, 48 counties have more than 1 title company

- all are independent and compete against one another based on price and service - realtors can select the company offering the best price and service for the client.

- proponents have indicated that nearly ½ of Kansas counties have only 1 title company; in fact there are 62 COUNTIES UNDER 10,000 POPULATION which are already exempted from the law.

2. In effect, the purpose of the present law is to encourage controlled business title companies to compete for "public business" and not to just service "captured consumers."

3. Independent title companies realize the enormous competitive problems posed when a real estate broker can offer incentives to have title business referred to that the broker's captive title company.

4. Competitive prices and service for the consumer can only be forged in a competitive marketplace - **controlled business title companies, regardless of how many, will not compete with one another unless they are forced to seek out business beyond referrals.**

5. If controlled business title companies only service "captured consumers" and are not competing with other title companies for business, then the consumer will be subject to non-competitive prices. (See Exhibit "C")

Reverse competition results when a marketplace is dominated by a controlled business title company, and actually competition decreases as independent title companies cannot compete for business and close their doors.

6. An example of a by-product of unregulated controlled business, is a federal class action which was filed in 2000 by 2 St. Paul, Minnesota residents alleging that controlled business title companies in the St. Paul/Minneapolis area offer fees that are not the lowest in the market and that real estate professionals are breaching fiduciary duties to their clients. This case is pending in federal district court.

7. Even if prices between a controlled business title company and an independent title company are the same, the independent title company never gets an opportunity to compete for the business, since the consumer will likely take the recommendation of the realtor and the realtor has a powerful incentive to recommend the affiliated title company when the realtor receives financial gain from such referral. **Such a practice results in unfair competition and an "unlevel playing field."**

8. Since realtors can only receive a return on investment, they will need to affiliate themselves with existing title companies - form cartels in larger markets. For example, broker or brokers "buy into" a title company - title company becomes a controlled business title company and is guaranteed the business of the investing brokers - title company wants to make as much money as before - brokers want a return on investment - prices go up - consumer pays increased prices.

9. In 2001, the Real Estate Service Providers Council, Inc. (RESPRO) reported that 38 states had controlled business insurance legislation that placed a percentage cap on the amount of referrals a captive title insurance company can receive from a controlled business arrangement.

For example:

	Percentage Limitation on Controlled Business
Alaska	50%
Arizona	25%/50%
California	50%
District of Columbia	25%
Connecticut	20%
Idaho	25%/50%
Indiana	25%
New Jersey	25%/50%
New Mexico	50%
North Dakota	25%
Tennessee	40%

Utah	33%
Wyoming	25%

Nebraska permits the denial of a license if the applicant has obtained it for the purpose of writing controlled business, and if total commissions from controlled business sources exceed 10% of total commissions from all business sources, it is presumed the license was obtained primarily for the purpose of writing controlled business.

Utah's law contains a complete prohibition on affiliated/controlled business where the expectation of financial profit resulting in whole or in part from the affiliated/controlled business is a substantial factor in the decision to have a financial interest in the title company by the producer of the title insurance business.

California's law requires that any applicant for title insurance indicate the applicant's intent to actively compete in the marketplace for title insurance in each county in which the applicant seeks to or does conduct business. The failure to do so will constitute grounds for denial of the license. Further, the company must demonstrate that its business conduct will not involve reliance for than 50 percent of its closed title orders from controlled business sources.

10. In conclusion, recommendations to consumers by knowledgeable real estate professionals regarding the selection of a title company can be of substantial benefit to the consumer if that recommendation is based exclusively on considerations that serve the best interests of the consumer; however, when the recommendations are influenced by the fact that the person making the recommendation will benefit personally from the consumer's decision, then the consumer is likely to be adversely affected and the system flawed by a conflict of interest. And, if producers of title business are allowed to control the market place, then that controlled business is effectively eliminated from the pool of business that independent title companies compete for, creating unfair competition and an "unlevel playing field."

Under present laws Kansas has a very healthy and competitive title insurance industry which protects the consumer and which allows consumers and real estate agents to select a title company which offers the best price and service. The proponents of this bill have introduced similar bills in 1991, 1995, 1996, 1998 and 2001 and all were unsuccessful. The Kansas Land Title Association requests that you defeat Senate Bill 66.

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Respectfully submitted by,

Roy H. Worthington
Legislative Chairman
Kansas Land Title Association

QUOTE FROM NATIONAL ASSOCIATION OF REALTOR PRESIDENT MARTIN EDWARDS, JR., APRIL 2002 REALTOR MAGAZINE:

Allowing big banking conglomerates into our industry would harm commercial real estate markets in several ways. For one thing, conflicts of interest would develop between financial holding companies and their commercial real estate subsidiaries, and a rash of safety and soundness issues would eventually follow. No regulatory framework and no required amount of disclosure would be enough to prevent those problems from having a deep negative impact on commercial real estate. In addition, competition would be reduced as banks gobbled up real estate companies. We're not alone in believing so. The National Association of Home Builders told a House panel last year about apartment management, "The involvement of banking organizations in real estate management would create an unfair competitive environment for real estate management firms not affiliated with banks...and would unfairly alter the competitive marketplace and unnecessarily increase the costs for consumers." Support for our position is strong in Congress, where we're seeking legislation that would forbid banks from crossing the line into the real estate business. Nearly 200 cosponsors have signed onto the bill.

QUOTE FROM NATIONAL ASSOCIATION OF REALTOR PRESIDENT RICHARD A. MENDENHALL, JANUARY 22, 2001:

..."several large financial services holding companies will quickly dominate our industry by buying up brokerages or driving others out of business."

QUOTE FROM NATIONAL ASSOCIATION OF REALTOR PRESIDENT OF PUBLIC AFFAIRS STEVE COOK, JANUARY 2001:

"As far as the consumer is concerned... it would be a concern to have the lender and the broker be (more or less) the same entity. We're not sure that consumers would fair as well as they do when they have brokers who have their own best interest at heart."

Spring Fling!!

Winning team flies to Cancun ^{TX}



Contest runs
February 1-April 30th

SALE SIDE		
Plaza Mortgage Issues pre-approval letter	=	1 pt
Loan to Plaza Mortgage	=	2 pts
* Order to Kansas City Title	=	2 pts
Co-op or other R&N sale	=	2 pts
In house (our house) sale	=	3 pts

LIST SIDE		
1 20 Day Listing (min)	=	2 pts
* Fee within attached commission guidelines	=	2 pts
KC Title requested on listing sheet	=	3 pts

All agents on team must have 30 points individually to be eligible for trip.

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**J.C. NICHOLS
RESIDENTIAL**

www.jcnichols.com

JACK W. FROST
PRESIDENT

MEMO

To: All Agents

From: Jack Frost

Date: March 6, 2000

Re: **JCNR POLICIES REGARDING OUTSIDE MORTGAGE COMPANY RELATIONSHIPS**

1. **An agent will not accept anything of value from a mortgage lender or loan officer.**

A Federal Law -- the Real Estate Settlement Procedures Act (RESPA) -- clearly states that a real estate agent cannot receive "anything of value" for directing a loan or loans to a mortgage company or to a loan officer. "Anything of value" has been broadly defined by HUD to include virtually anything that would be worth giving or obtaining -- money, lottery tickets, free lunches, TV sets, trips, etc. Section 8 of RESPA provides for criminal penalties - \$10,000 fine, jail -- for both the "giver" and the "receiver".

THIS LAW ALSO APPLIES TO TITLE COMPANIES.

2. **It is a fiduciary responsibility for a sales agent -- when acting in the capacity of a buyer's agent -- to assist said buyer in securing a "market competitive" loan with respect to terms, rate, and points.**

This loan should be the best -- or very close to the best -- achievable loan available to the specific buyer in the market place at the time of application.

- * We would strongly suggest that -- in all cases -- you secure a loan approval from Plaza Mortgage, even if the buyer already has a loan commitment from another lender.

3. **In the event that a buyer's agent incurs financial liability for not accomplishing number 2 above, J.C. Nichols Residential will not indemnify said agent, nor accept any financial responsibility for the failure of the agent to satisfy this obligation to the buyer.**

4. **No part of the company's advertising funds will be expended for ads, flyers, brochures, cards, etc. when an outside mortgage company is mentioned in said ad, flyer, etc., and/or an outside mortgage company participates in the cost of said ad, flyer, etc. This prohibition includes funds in the agent's advertising budget.**

Thanks for adhering to all of the above. I sincerely believe that these policies are in your best interest, as well as ours.

cc: Salesmanagers
David Cooper, Larry Wallace, Tom Krattli

RESIDENTIAL SALES
EXECUTIVE OFFICE
7500 College Boulevard
Suite 100
Overland Park, KS 66210
(913) 491-1333 Office
(913) 469-1003 Fax



J.C. NICHOLS
RESIDENTIAL

MEMO

JACK W. FROST
PRESIDENT

To: All Sales Agents
From: Jack Frost
Date: January 19, 2001
Re: Monthly Marketing & Technology Fee for agents with fewer than twelve (12) closed transactions or less than \$2,000,000 in closed volume during 2000. **This excludes members of the President's Roundtable and the President's Club.**

CORRECTED AND REVISED

This memo supersedes all previous memos on this subject.

We've made some changes in our previous policy announcements so that we conform to our Independent Contractor Agreement, and to expand the opportunities to avoid this monthly fee.

* Commencing on January 1, 2001, there will be a \$75 monthly marketing and technology fee assessed to those agents who fail to achieve specific performance criteria. This is being implemented because we feel all agents should pay their fair amount for our marketing and technology endeavors. **All agents who have met or exceeded these standards in 2000 will not be subject to this fee.**

* The monthly performance criteria required to avoid this fee is

One (1) closed transaction (a sale made, a listing sold, a mortgage placed and closed with Plaza Mortgage Services, a title policy issued thru Kansas City Title. * or two (2) closings – in Kansas – thru Kansas City Title). The fee will be invoiced on a quarterly basis. If you have three (3) closed transactions (any of the above) during the quarter, or \$500,000 in closed sale volume, no fee will be due. If you have not met these standards for the quarter, you will be billed as follows:

- 0 closed transactions -- \$225
- 1 closed transaction -- \$150
- 2 closed transactions -- \$ 75

RESIDENTIAL SALES
EXECUTIVE OFFICE
7500 College Boulevard
Suite 100
Overland Park, KS 66210
(913)469-8300 Office
(913)469-1003 Fax

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The cost of Affiliated Business Arrangements ?

	Minneapolis		Minneapolis after reissue	
	1987	2002	1987	2002
Mortgage Closing fee	200	250	200	250
Name Search	15	30	15	30
Plat Drawing	40	60	40	60
Lenders and Owners Policy	690	845.5	480	578.7
Abstract Update	70	150	70	150
Assessment Search	25	30	25	30
Sellers Closing Fee	160	250	160	250
Totals	1200	1615.5	990	1348.7

	Kansas City, Kansas		Kansas City, Kansas after reissue	
	1987	2002	1987	2002
Mortgage Closing fee	150	200	150	200
Name Search				
Plat Drawing				
Lenders and Owners Policy	925	1005	619	681
Abstract Update				
Assessment Search				
Sellers Closing Fee	100	0	100	0
Totals	1175	1205	869	881

1987 was selected because mid way through 1986 the two largest brokers in Minneapolis decided to enter the title business. Standard title rates in Minneapolis increased 35% versus 3 % in Kansas City. Reissue rates increased 36% in Minneapolis versus 1% in Kansas City.

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NOTE: TITLE ONE IS AN UNAFFILIATED (NON-CONTROLLED BUSINESS) TITLE COMPANY IN THE MINNEAPOLIS/ST. PAUL AREA AND COMPARES ITS RATES WITH CONTROLLED BUSINESS TITLE COMPANIES.

TITLE ONE, INC.

Actual Price Comparison of Buyer's Fees with 8 other title insurance companies*

The following example is a typical transaction with a purchase price of \$200,000 and new financing in the amount of \$160,000. Title companies often rely on the fact that real estate consumers rarely compare title companies. As a result, title companies often charge exorbitant amounts for standard services. At Title One, Inc., we feel that we have a duty to set our fees at a reasonable amount. Just look at the difference:

*These figures were obtained from verbal quotes on June 9th, 2000 and may vary or contain inaccuracies.

	Title One	Burnet Title \$334.50 difference	Northstar Title	Home Title
Closing Fee	\$195.00	\$250.00	\$250.00	\$295.00
Name Search	20.00	25.00	25.00	30.00
Plat Drawing	45.00	60.00	60.00	60.00
Recording Service Fee (2 documents)	31.00	43.00	30.00	29.00
Title Insurance Lenders	455.00	602.50	597.50	605.00
Owners	260.00	310.00	310.00	237.50
Adjustable Rate Rider	0.00	50.00	50.00	50.00
TOTALS:	\$1006.00	\$1,340.50	\$1,322.50	\$1,306.50
TOTAL SAVINGS AT TITLE ONE:		\$334.50	\$316.50	\$300.50

Even more savings: \$150 closing fee on most transactions involving new financing in which both the buyer and seller use Title One, Inc.

MORE COMPARISONS:

	Title One	Edina Title	Old Republic Title	Walsh Title
Closing Fee	\$195.00	\$260.00	\$250.00	\$250.00
Name Search	20.00	25.00	25.00	30.00
Plat Drawing	45.00	50.00	60.00	60.00

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Recording Service Fee (2 documents)	31.00	46.00	30.00	30.00
Title Insurance Lenders	455.00	610.00	572.50	592.50
Owners	260.00	262.50	310.00	275.00
Adjustable Rate Rider	0.00	50.00	50.00	50.00
TOTAL:	\$1006.00	\$1,303.50	\$1,297.50	\$1,287.50
TOTAL SAVINGS AT TITLE ONE:		\$297.50	\$291.50	\$281.50

Even more savings: \$150 closing fee on most transactions involving new financing in which both the buyer and the seller use *Title One, Inc.*

MORE COMPARISONS:

	Title One	Chicago Title	Stewart Title	Universal Title
Closing Fee	\$195.00	\$250.00	\$250.00	\$250.00
Name Search	20.00	30.00	25.00	25.00
Plat Drawing	45.00	60.00	50.00	60.00
Recording Service Fee (2 documents)	31.00	50.00	31.00	40.00
Title Insurance Lenders	455.00	605.00	485.00	560.75
Owners	260.00	237.50	340.00	284.75
Adjustable Rate Rider	0.00	50.00	50.00	.00
TOTAL:	\$1006.00	\$1,282.50	\$1,231.00	\$1,220.50
TOTAL SAVINGS AT TITLE ONE:		\$276.50	\$225.00	\$214.50

Even more savings: \$150 closing fee on most transactions involving new financing in which both the buyer and the seller use *Title One, Inc.*

Questions? E-mail Title One

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Another Perspective

* **S**omething once thought to be a way to lower costs to consumers is now thought to actually increase them. What happened?

Back in 1992 those who advocated the one-stop advantages of controlled business arrangements were certain there would be monetary benefits to consumers. In addition to extra convenience they'd see lower prices, lower by as much as 10%, it was claimed. Not only would consumers like the idea of a single source for all settlement-related services, the arguments went, they'd also benefit from the efficiencies certain to result when a large array of products and services were offered at a single store.

* There weren't any examples cited or studies offered showing that any such thing was going to happen, but that didn't seem to matter. Regulators came to believe what they were urged to believe, even though many thoughtful people argued that just the opposite would result, that once a firm got control of a customer it was much more likely to charge him more rather than less.

* It is now eight years later and the idea of one-stop shopping has gained a great deal of ground. Virtually every metropolitan area has its realtor-owned and lender-owned multi-stores offering brokerage services, mortgages, title services, appraisals, and other things. No one is claiming that costs to the consumer are any lower. As a matter of fact, profit squeezes in the real estate brokerage business have created just the opposite effect. Brokers are now charging

extra for a host of minor tasks they have always done gratis. This in addition to what they are making on title insurance—and the usual hefty real estate brokerage commissions.

And now a new perspective on the effect of affiliated business arrangements is beginning to enter the debate. Congress and a number of state legislatures are considering legislation that would sharply rein in and regulate predatory practices engaged in by so-called "high cost mortgage" lenders, those who make mortgages to credit-impaired borrowers in exchange for a high interest rate and higher other fees. As the mortgage lending business has increasingly moved towards credit scoring, the need for such sub-prime lending channels has increased.

Most high-cost lenders are fair and honest business people, but some are not. So legislators are creating special regulations to prevent abuses.

Guess what? In doing so, these legislators see immediately that where lenders operate affiliated ancillary services they have special and not too visible opportunities to gouge borrowers. That AfBAs, by their nature, deprive borrowers of the comparisons they need to shop wisely. That interest rates and loan fees can be made to look attractively low while aggressive overcharging for title, credit, document prep, etc, can recoup it all for the lender, and more.

An early perspective urged AfBAs as a way to reduce costs to consumers. A new perspective understands them to be, as many feared, exactly the opposite. ❖

THIS ISSUE'S HIGHLIGHTS

VISIT OUR WEBSITE AT WWW.CONDELL.COM

TG Express Wins Discovery Award Prize	cover	Fidelity and Tyler Technologies Form B2B Portal	5	Fidelity Transfers Chicago's Techies to Micro General's ACS Unit	7
First American Restructures its REI and Services Group	3	February's New Home Sales Remain Strong	5	Microsoft Invites Banks, Freddie Into Real Estate Venture	8
Metropolitan Keeps On Acquiring, Buys Michigan's Raisin Valley	4	UCLID's New AI Technology Turns Heads	6	Five Home Builders Launch Joint Web Site	10

Don Sewing

REALTY & INVESTMENT CORPORATION, INC.



1301 QUINDARO KANSAS CITY, KANSAS 66104 (AREA 913) 342-2060

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
Statehouse
Topeka, KS 66612

Honorable Ruth Teichman, Chair
Senate Financial Institutions and Insurance Committee
Statehouse
Topeka, KS 66612

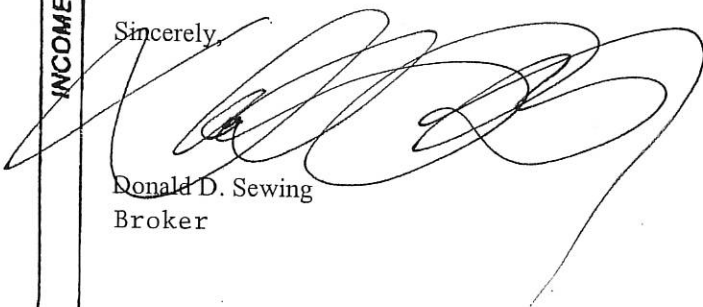
Dear Chairpersons:

I have been a licensed real estate agent in the State of Kansas for over 40 years. Although I am a member of the Kansas Association of Realtors, I am nevertheless concerned about the efforts of the Kansas Association of Realtors to change the current law concerning controlled business activities in the title insurance industry. I have always used independent title companies to assist me in my real estate activities and believe that independent companies offer the best service and price to both realtors and consumers. Price and service should dictate which title company gets the consumer's business, not a financial incentive of the real estate agent to use an affiliated title company.

I do not believe it is in the best interest of either the consumer or the real estate industry in general to allow controlled business title companies owned by realtors or banks, to capture the marketplace through referrals of title business to affiliated companies. Such referrals may constitute a conflict of interest and subject the consumer to higher prices and lesser service than can be obtained in a competitive marketplace.

I fully support the current restrictions on controlled business in the title insurance industry.

Sincerely,


Donald D. Sewing
Broker

INCOME PRODUCING PROPERTY SPECIALISTS

SEW FI+I
2-19-03
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ca



YOUNGER REAL ESTATE

17789 STATE AVE
TONGANOXIE, KS 66086
BUS. (913) 724-1490

February 10, 2003

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
Statehouse
Topeka, KS 66612

Honorable Ruth Teichman, Chair
Senate Financial Institutions and Insurance Committee
Statehouse
Topeka, KS 66612

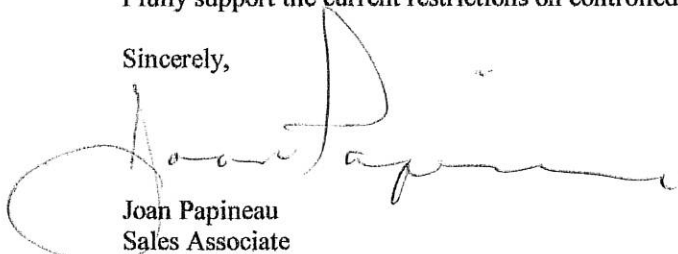
Dear Chairpersons:

I have been a licensed real estate agent in the State of Kansas for over 25 years. Although I am a member of the Kansas Association of Realtors, I am nevertheless concerned about the efforts of the Kansas Association of Realtors to change the current law concerning controlled business activities in the title insurance industry. I have always used independent title companies to assist me in my real estate activities and believe that independent companies offer the best service and price to both realtors and consumers. Price and service should dictate which title company gets the consumer's business, not a financial incentive of the real estate agent to use an affiliated title company.

I do not believe it is in the best interest of either the consumer or the real estate industry in general to allow controlled business title companies owned by realtors or banks, to capture the marketplace through referrals of title business to affiliated companies. Such referrals may constitute a conflict of interest and subject the consumer to higher prices and lesser service than can be obtained in a competitive marketplace.

I fully support the current restrictions on controlled business in the title insurance industry.

Sincerely,



Joan Papineau
Sales Associate

ba-2

DAVIS REAL ESTATE

8031 Parallel Parkway • Kansas City, Kansas 66112
(913) 299-4200

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
Statehouse
Topeka, KS 66612

Honorable Ruth Teichman, Chair
Senate Financial Institutions and Insurance Committee
Statehouse
Topeka, KS 66612

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I fully support the current restrictions on controlled business in the title insurance industry.

Sincerely,



Wanda I. Davis
Owner/Agent

6a³



YOUNGER REAL ESTATE

17789 STATE AVE
TONGANOXIE, KS 66086
BUS. (913) 724-1490

February 10, 2003

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
Statehouse
Topeka, KS 66612

Honorable Ruth Teichman, Chair
Senate Financial Institutions and Insurance Committee
Statehouse
Topeka, KS 66612

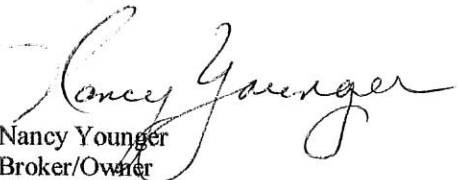
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I fully support the current restrictions on controlled business in the title insurance industry.

Sincerely,


Nancy Younger
Broker/Owner

6a4

DAVIS REAL ESTATE

8031 Parallel Parkway • Kansas City, Kansas 66112
(913) 299-4200

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
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Topeka, KS 66612

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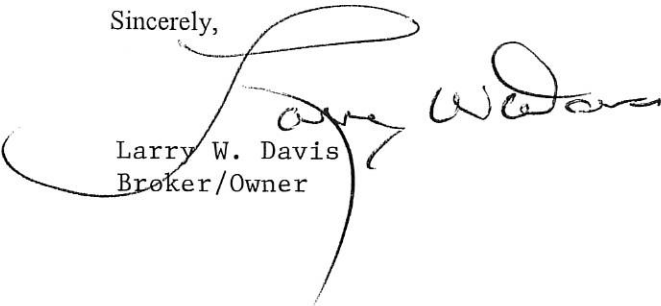
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Sincerely,


Larry W. Davis
Broker/Owner

6a 5r



YOUNGER REAL ESTATE

17789 STATE AVE
TONGANOXIE, KS 66086
BUS. (913) 724-1490

February 10, 2003

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
Statehouse
Topeka, KS 66612

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Senate Financial Institutions and Insurance Committee
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Sincerely,

Cheri Kraft
Sales Associate

ba 6

DAVIS REAL ESTATE

8031 Parallel Parkway • Kansas City, Kansas 66112
(913) 299-4200

Honorable, Patricia Barbieri-Lightner, Chair
House Insurance Committee
Statehouse
Topeka, KS 66612

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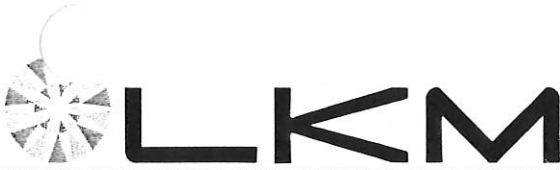
I fully support the current restrictions on controlled business in the title insurance industry.

Sincerely,



Steven J. Davis
Broker/Agent

6a-7



League of Kansas Municipalities

300 SW 8th St.
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Financial Institutions and Insurance
From: Don Moler, Executive Director
RE: Support for SB 75
Date: February 19, 2003

First, I would like to thank the Committee for allowing the League to testify today in support of SB 75. This bill represents a cornerstone of the League's legislative priorities for the 2003 legislative session. SB 75 provides greater flexibility for cities, counties, and other local units of government, by allowing taxpayer dollars to be maximized. The convention of voting delegates, made up of League member cities, adopted the following as part of our action agenda:

"We oppose statutorily imposed restrictions on banking and investment choices for local governments."

Competition, Competition, Competition

We believe SB 75 accomplishes this very straight-forward goal. It has been brewing as an issue of concern to local governments for several years as a result of the continuing changes in the banking industry. We now have a situation where many of our larger units of government find that most of the banks which would logically be depositories for their funds are no longer eligible to hold these funds because they are not state chartered banks and do not have a main office located in the state of Kansas. This legislation will be beneficial for both large and small cities and their taxpayers. Specifically, allowing banks which are not chartered in Kansas to bid on public moneys would reintroduce competition into the state banking market and thus allow local units to maximize the return on the public's tax dollar. This is a point which cannot be overstated as the difference of a .5% or 1% interest, when investing millions of dollars, is a sizeable amount of money, perhaps as much as \$10,000,000 - \$20,000,000 per year. It should also be stressed that the safety of the public's money will not be impacted. This is the case because the rules which apply to investments today would apply to investments tomorrow. The only difference would be fostering competition by allowing more banks to be eligible to bid on active and inactive funds of local governments in Kansas.

Protectionism

The existing law in this area is totally protectionist in nature. It is our understanding that 49 states currently do not engage in such protectionist policy and allow competition to prevail. I am sure that some argument will be made today concerning the fact that the state does not have a law in place to protect Kansas chartered banks. The passage of this legislation will be their death knell. We do not believe this

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www.lkm.org

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because the decision as to where to make investments of public tax dollars will still be in the hands of locally-elected governing bodies. People living in the cities and counties in which these banks currently operate would seem to have the greatest stake in seeing that the banks remain strong and vibrant. Thus, rather than putting these banks out of business, I would suggest that the actual result will be to simply add an element of competition to the market. Thus, the ultimate choice about placement of public funds will be left with locally-elected government officials, who will still, at their own discretion, have the option of placing funds in their local bank.

State Currently Has Authority to Invest in Out-Of-State Banks

While some may characterize this legislation as detrimental to Kansas, we would point out the simple fact that the State of Kansas already has the authority to invest in out-of-state banks and we are merely asking for the same type of flexibility already granted to the State itself. We are not asking for **any** expansion of investment authority, only the option of placing the public's tax dollars where they will receive the highest and best return, much like the State of Kansas does today.

Conclusion

An argument which has been made in the past, and which we believe will be made again this year, is that Kansas banks reinvest their money in the local community. We would have no problem with an amendment to this legislation which would require that banks accepting public monies must make loans back into communities in Kansas. Ultimately, this is a bill which promotes competition and thereby maximizes the public's dollar. We believe this legislation to be in the taxpayers' best interest and would urge the Committee to report it favorably to the Senate floor.



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.268.4351
Topeka Phone: 316.648.6236
mtaylor@wichita.gov

Mike Taylor

Senate Bill 75 Investment of Public Funds

Delivered February 19, 2003
Senate Financial Institutions and Insurance Committee

The City of Wichita supports Senate Bill 75. It will eliminate a special interest provision in Kansas law which forces local governments, including cities, counties and school districts, to deposit public funds only in so-called "hometown" banks which have a state charter.

Taxpayers want government to provide services in a business-like manner. They constantly urge us to root out waste and to be more efficient and effective with their tax dollars. SB 75 does that. It will increase the City of Wichita's investment income by hundreds of thousands of dollars a year. That is significant at a time when the City Council is figuring out how to deal with the loss of \$10-million in promised state funds over the next 18 months.

Local governments should be allowed to use any federal or state chartered financial institutions which local officials determine offer the best value for the taxpayers they were elected to represent. The current restriction on local government is antiquated, anticompetitive and unreasonable. So unreasonable the State of Kansas exempted itself from the "hometown" bank requirement several years ago. Why does the Legislature continue to mandate this restriction on local governments?

The current state law is a textbook example of powerful special interests at work. It guarantees that one small segment of the banking industry gets lucrative, near exclusive access to local public funds at the expense of taxpayers. According to the American Bankers Association, Kansas is the only state with such special interest protection measures.

The Kansas Bankers Association and Community Bankers Association portray these restrictions as some kind of patriotic duty to keep small banks operating. That does sound better than calling it what it really is: a state-mandated corporate welfare measure in which local taxpayers are forced to subsidize their hometown bank. A bank which may or may not actually be locally owned. SB 75 will end this ridiculous special interest protection measure and will finally allow local governments to invest tax dollars in the best interest of the taxpayer, not the community banker.

The current law prevents the City of Wichita from doing business with some of the largest banks in Kansas. The City of Wichita has such large deposits and requires such sophisticated financial transactions, most of the so-called "hometown" or state chartered banks can't handle the business and won't even bid on it. SB 75 will allow the City of Wichita to be more effective and efficient with tax dollars. Meanwhile, smaller local governments, can continue using so-called "hometown" banks if they choose.

Managing public money involves a special trust and requires public officials to use caution, diligence and expertise to make sure those funds are invested in the best interest of the public. That can not happen to the degree it should if the Legislature continues to mandate that local government banks."

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Midway Sales & Distributing, Inc. d/b/a

MIDWAY WHOLESALE

Topeka • Salina • Lawrence • Manhattan • St. Joseph • Kansas City

**Presentation to the Senate Financial Institutions and Insurance Committee
February 19, 2002**

**By Kenneth Daniel, Chairman and C.E.O.
Midway Sales & Distributing, Inc. d/b/a Midway Wholesale**

Madam Chairwoman and Members of the Committee:

My name is Kenneth Daniel. I am the Founder, Chairman and C.E.O. of Midway Wholesale, a building materials distributor headquartered in Topeka with branches in Salina, Manhattan, Lawrence, Elwood/St. Joseph, Kansas City, and Wichita.

I would like to speak in opposition to SB 75.

Thirty-two years ago I founded Midway with \$300 in capital. Today Midway has seventy-five employees in Kansas and more than ninety altogether. All of our investment capital came from after-tax profits and salaries plowed back into the business. All of our working capital and most of our growth capital has been provided by Kansas-owned banks. For the past twenty-five years or more, our banks have had two to three times as much invested in Midway as we have.

Thanks to those Kansas banks, Midway has expanded without a dime of public money. We are not alone. Nationally, only one-tenth of one percent of small business funding comes from venture capital sources. Small business operating and growth funds come mostly from banks. When it comes to small business, banks are the only important economic development agency.

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Through the years I have worked on many community fund-raising efforts. It is my experience that the financial institutions are the first to step up to the plate with big support. When I was a member of the Topeka Jaycees, we worked with the local banker's association for four years to colorize KTWU, our local public television station. I spent twenty years on the board of directors of the Topeka YMCA. Not only are the financial institutions the YMCA's most important financial supporters, they are always well represented on the board.

Not only do Kansas banks help small businesses, almost all of them are small businesses. And, they pay taxes. Through the first seven months of this fiscal year, the 400 or so Kansas financial institutions paid \$15 million in privilege (income) taxes, while all "C" corporations combined paid only \$29 million. It does not make sense to starve the cash cow by shipping our money out-of-state.

And, it is our money.

It is my understanding that Kansas governmental entities have been required to invest their surplus funds in Kansas for as long as Kansas has been a state. That should not change—not now, not ever. That money needs to stay in Kansas to build Kansas. We cannot afford to underestimate the importance of Kansas banks.

I would encourage the members of the committee to defeat Senate Bill 75.



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
Office (785) 232-8215 • Fax (785) 232-9320
mgoddard@hcbankers.com

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 19, 2003

Re: Senate Bill No. 75

The Heartland Community Bankers Association appreciates the opportunity to share its concerns regarding Senate Bill 75 with the Senate Committee on Financial Institutions and Insurance.

In recent years HCBA has not been actively involved in the debate over who should be an eligible public funds depository. This is because we recognize the need to balance the desire of units of government to get a greater return on their money versus the need to support Kansas-based financial institutions. However, unlike public funds bills in years past, Senate Bill 75 is not about investing public monies with institutions based on where they are chartered. Instead, Senate Bill 75 is about allowing public funds to be invested in financial institutions that have no involvement in, or commitment to, the communities whose funds they wish to accept.

Senate Bill 75 removes the requirement in Kansas law that a public funds depository must have a main or branch office in the county or counties in which the municipal corporation is located. In place of that requirement, Senate Bill 75 simply mandates that a public funds depository must have an office or branch in Kansas. The bill also requires that a prospective depository have a minimum Community Reinvestment Act rating of "Satisfactory."

If Senate Bill 75 were to become law in its present form, Citibank, Wells Fargo or any other bank not currently in Kansas could open up a single branch in Kansas City and bid on public funds in all 105 counties. At the same time, a Kansas-chartered bank or savings and loan with offices only in Wichita could also bid on public funds in the 104 counties in which they have neither offices nor employees.

While such a scenario would no doubt allow a local unit of government to find more bidders for its public funds, it would also allow financial institutions that have no presence in the municipal corporation's jurisdiction to accept public funds deposits. HCBA feels that, at a minimum, a public funds depository should have employees and a branch office, as well as be a taxpayer, in the communities they wish to serve. That standard should apply to banks and savings and loans no matter where they are chartered, be it Kansas or elsewhere.

The Heartland Community Bankers Association appreciates the consideration of our concerns by the Senate Financial Institutions and Insurance Committee.

Thank you.

SERVING FINANCIAL INSTITUTIONS IN COLORADO, KANSAS, NEBRA

Senate FI & I Committee

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SENATE COMMITTEE ON FINANCIAL
INSTITUTIONS & INSURANCE
REGARDING SB75

February 19, 2003

*Presented by
Steve Handke
Community Bankers Association of Kansas*

Good Morning. My name is Steve Handke and I serve as CEO of the Union State Bank of Everest. Everest is a small town of 300 people located in northeast Kansas. Our bank has served the area residents of Atchison and Brown counties since 1902. Today I'm representing the Community Bankers Association of Kansas as a member of our State Legislative Committee.

Thank you for the opportunity to address you today on such an important economic issue. Our bank serves the northeastern Kansas counties of Brown, Atchison, and Doniphan. As way of introduction, my formal education was in economics. I earned a BS at Kansas State University and a Masters Degree in Economics at Oklahoma State University. I am fortunate to have the opportunity to use this training in the Kansas community that our family has lived for four generations. I am here today on behalf of the Community Banker's Association of Kansas in opposition of Senate Bill 75. But more importantly, I am here today as a concerned Kansan to oppose a piece of legislation that would be bad public economic policy for Kansas.

It is hard to over emphasize the importance of the supply of money to economic growth. The Federal Reserve controls the whole direction of the US economy by merely shrinking and expanding the money supply. In Kansas, we can look at one component of our state's money supply as measured in deposits. Presently, in Kansas there are approximately \$43 Billion in total deposits. According to the FDIC latest data available. State and local public funds make up 10-12% of those total deposits, or in dollar terms approximately \$4-5 billion. This is a huge amount of money that commands a considerable economic power in Kansas.

In past years this issue was divided mostly by urban vs. rural sentiments. I also see the majority of the Senators on this committee represent urban counties. I hope my remarks will help to bridge this gap. Sound economic principals apply equally in city or rural markets. The only difference is that in rural areas our economics are smaller and easier to see the working of these principals and the importance of deposits or money in economic growth. Viewing this public funds issue with good economics is good for cities as well as rural areas and therefore best for all of Kansas.

The major proponents of changing Kansas' long standing policy of public funds investment appears to be representatives of local units of government. The government units are genuinely concerned about getting competitive rates for their funds, and some out of state banks are wanting access to one of Kansas largest source of funds. I would like to address each of these issues.

Proponents of allowing out of state banks and S&Ls access to public funds site concerns about lack of competition. They believe that without competition they will not earn a market rate of interest an their funds. This is precisely why the Pooled Money Investment Board was created in Kansas. If local units of government could not get a competitive bid locally for their funds, they could go to the state pooled funds for a market rate. Historically, not only did these local units get market interest rates at the pool, but they earned above market rates, which caused problems with the pools. Thankfully, the Pooled Money Investment Board and the Legislature have made changes to the program to get back to paying market rates.

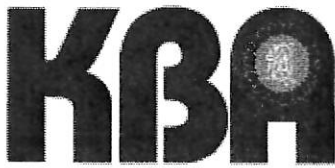
An even more important issue, which I believe the local units of government may have missed, is the importance local deposits play in building tax bases. The business of local banking is to take a short term deposits, and by making a loan, create a long-term asset. These loans provide the local engine for the creation of new property that generally increases the tax base of the community. When new cars are purchased, new houses are built, businesses opened, tax bases increase and tax revenues go up. It just doesn't make sense to let deposits flow out of the state to build tax bases in other states. Since public funds are monies that come from our local communities, don't we owe it to people to first invest back into their communities?

Branch banking in essence creates a conduit or pipeline for management and funds to flow from one location to another through a branching network. With our current marketplace of interstate bank ownership, these pipelines are now well established over our Kansas boarders. My community is a vivid example of what these pipelines can do. In our market of the City of Atchison, the community is served by four banks and one savings & loan. The town is prospering with good economic growth in large part due to the competition of the local banks. Our toughest competitor is The Exchange National Bank, which is the largest bank in the market at approximately \$150 million in assets. It's a well-managed bank that is aggressively lending in the Atchison area using approximately 80% of their deposits for loans. Our bank is a smaller bank in the market at \$43 million in assets and we also are using over 80% of our deposit for loans. In Atchison county during 2002, 1,008 real estate mortgages were filed at the county register of deeds. Nearly silent in those 1,008 mortgages is the second largest financial institution in the market that being World Saving and Loan Association, head quartered

in Oakland, California. This out of state branch has \$69 million in Atchison county deposit and has average 6 mortgage filings per year for the last five years. In the testimony I gave before this committee in 1997 I sited the fact that in 1996 World Savings made 1 mortgage loan. It made 2 mortgage loans in each of the years 1995, 1993, and 1992, and no mortgage loans in 1994. It should also be clarified of their 8 mortgage loans from 1992 through 1996, 3 loans were to their employees. These truths are as a valid today as they were five years ago in my testimony in 1997. This is a vivid example to illustrate what out of state banks and S&Ls can create with their branch conduits for management and the flow of deposits. Can you imagine what it would do to our local tax base and ultimately tax revenues if we could get 80% of World Saving's deposits working in the Atchison community?

In conclusion, I strongly recommend that the current policy remain unchanged for the investment of idle funds and urge you to oppose SB 75. Please don't let such a huge part of our state's money supply be sucked out across interstate deposit conduits. It is good sound economic policy for both cities and rural areas to make every attempt to use Kansas funds in Kansas by requiring a Kansas charters or home officers for all public funds holders.

~~11-3~~
11-3



The Kansas Bankers Association

To: Senate Financial Institutions and Insurance Committee
From: Chuck Stones, Senior Vice President

Re: SB 75

Madam Chair and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you regarding SB 75.

KANSAS TAXPAYERS MONEY SHOULD STAY IN KANSAS FOR THE BENEFIT OF THE TAXPAYERS.

◆ **IT IS NOT THE LOCAL UNIT OF GOVERNMENTS' MONEY.**

If local units are going to hoard taxpayer money, it should, at least, be used to the benefit of the people in the taxing unit.

Kansas is definitely a "host" state when it comes to interstate banking and branching. There are 11 out of state banks with 196 branches in Kansas, while there are 4 Kansas banks with about 15 branches in other states.

It is very evident that Kansas is merely acting as a deposit collecting area for some of the large multi-state banking operations. If more deposits are needed to fund activity in other states, they merely increase rates to collect the needed funding. The same would be true in the case of public funds. Kansas's taxpayer's money would be used to fund projects in other states.

◆ **IT IS NOT ABOUT COMPETITION.**

In the last 15 years the number of banks has declined from a high of 628 to 382. In 1986 out of town branching was first allowed. There are now 188 Kansas banks with branches in other towns with a total of 496 out of town locations. In other words, there is more competition now than there was before.

There are 1,306 banking facilities (home offices and branches) throughout Kansas. Johnson County has the most facilities with 159 while Sedgwick County has 124.

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◆ **THERE IS NOT A NEED FOR THIS LEGISLATION.**

We have made every effort to be amenable to the concerns of the public units of government.

When the concern was expressed that banks were not bidding at all or not bidding a high enough rate for the money that local taxpayers had paid to the local unit, we helped design the Municipal Investment Pool. A bank must now bid a market rate, called the "Investment rate", or the local unit has the option to then place their money in the MIP.

When the concern was raised that some banks simply did not have the technology or the capacity available to handle some cities active accounts, we were willing to insert the word "acceptable" in the statute dealing with bids from banks with charters in Kansas. The word "acceptable" was purposefully left undefined in order give the local units maximum flexibility under the law.

We have not heard a valid reason to make this change. All the reasons cited are *convenience* factors for the local units. None address the issue of Kansas taxpayer dollars remaining in Kansas.

◆ **PUBLIC FUNDS ARE ONE OF THE VERY FEW REASONS THAT AN OUT-OF-STATE BANK WOULD KEEP A CHARTER IN KANSAS.**

There are currently 2 major out-of-state banks that have decided to maintain a charter in Kansas in order to qualify to hold public funds. We believe, for many reasons, including taxes, control, etc, that is beneficial to the State for charters to remain in Kansas.

◆ **MANY KANSAS BANKS DEPEND ON LOCAL PUBLIC FUNDS AS A STABLE BASE OF DEPOSITS IN ORDER TO MEET THE NEEDS OF THEIR COMMUNITIES.**

Deposit growth in Kansas banks has been relatively flat. A lot of the growth in bank deposits has been because of conversions and purchases of S&L branches. We are seeing a "funding concern" in many rural areas of Kansas. As the population base ages and declines many Kansas banks find it difficult to sustain a stable deposit base. A bank in western Kansas did an internal study recently. They found that:

- ◆ 79% of their core deposits were held by people 60 years of age or older
- ◆ The inheritors of 62% of that money were not in their community
- ◆ The result will be a 51% decline in the banks deposit base

An examination of *"The Governor's Economic and Demographic Report"* shows the same scenario can likely be told throughout rural Kansas, and in many cases is already true in some very small rural communities. Kansas is above the national average for population over the age of 65 and 85. The percentage of people over the age of 65 makes up over 20% of the population in 42 counties. In addition, 38 Kansas counties are projected to have less population in 10 years than they currently have.

◆ **THIS IS NOT IN THE BEST ECONOMIC INTERESTS OF KANSAS**

Kansas spends millions each year on economic development in order to attract capital. Yet this bill allows Kansas tax dollars to flow freely out of the state. For over 65 years we have had a sound policy of requiring that local public funds be invested locally if at all possible. Are we going to abandon this sound and logical policy for the convenience of a few cities?

This is the exact opposite of the direction we should be looking. We should be looking at how to get more loan-able dollars into the Kansas economy, not less. Economic growth is the key to the solution to our current economic woes. In the 2003 State of the Union address, President Bush said, "Lower taxes and greater investment will help this economy expand. More jobs mean more taxpayers, and higher revenues to our government. The best way to address the deficit and move toward a balanced budget is to encourage economic growth, and to show some spending discipline in Washington, D.C.."

Where is the logic in putting forth all the effort on economic development and then casually allowing out-of-state institutions to raid Kansas capital?

Banks are the only institutions that serve as a "financial intermediaries" the economic development engine that runs the financial train. We take in money as deposits and lend it back out, repeat that cycle a few times and you get the roll over effect we talk about in economic development.

Deposits in local banks are the only guarantee that this deposit money will stay to benefit the local community.

The multiplier effect has a dramatic effect when you look at public funds on deposit with Kansas banks.

- ◆ **\$3.4 billion** of public funds on deposit at Kansas banks
- ◆ **79%** loan to deposit ratio
- ◆ multiplier effect of 4 = **\$10.74 billion** economic benefit

Looking at the benefits, local units of governments seem very short sighted in promoting this proposal. How much of this benefit is the state willing to lose?

Banking has changed – BUT banking has not changed. Banks still make loans with deposits and that money stays in the community and is used to create jobs and those people pay taxes or its used to expand facilities and that increases the tax base.

The local governments want out-of-state banks to be able to bid on this local tax money because they see the possibility of an increase in the interest rates on their deposits. This seems to me to be a very shortsighted perspective. We are worried that the local units will get very “investment manager” in their thinking. Thinking only of how much more interest can I make on this money, not where can this money do the most good for the community. By the way, that type of thinking can lead to a multitude of potential problems. Rate chasing by public employees has caused financial troubles for more than a few units of government across the country, never in Kansas.

Thank you for your consideration and we urge you to oppose SB 75.

Burlington

600 North Fourth
P O BOX 228
Burlington, KS 66839-0228
Phone: (620) 364-8472
Fax: (620) 364-8475



Waverly

311 Pearson Avenue
P O BOX 398
Waverly, KS 66871-0398
Phone: (785) 733-2564
Fax: (785) 733-Bank

February 18, 2003

TO: Senate Financial Institutions and Insurance Committee

FROM: Craig A Meader, President Kansas Bankers Association

RE: SB 75

Madam Chair and Members of the Committee:

I appreciate the opportunity to appear before you in regard to SB 75. Many Kansas banks rely on these taxpayer dollars as a source of stable deposits. Deposit growth in Kansas has been relatively flat while loan growth has increased. As our above average age, for the citizens of Kansas, increases it appears we will be declining further in deposit growth as inherited dollars transfer to a younger generation that does not live within our borders. It is therefore imperative that these dollars remain invested locally so Kansas banks can remain financial intermediaries and continue to take these deposits and loan them out in their local communities. You are all aware of the multiplier effect of this deposit money as it is loaned out within the community. I believe Chuck Stones has a more elaborate example in his testimony of how the multiplier effect translates into real dollars in the Kansas economy.

I was told another argument was that banks were not able to handle some of the deposits or were unwilling to pay the investment rate to keep public funds deposited locally. I have submitted, as part of my testimony, a graph on the use of the Municipal Investment Pool since its inception in 1992. As you will see, with the exception of a spike in Dec of 2000; I would submit since June of 1999 MIPs have been, if anything, flat and now have a decreasing trend. For example, November of 2002 had a balance of \$351M and November 2001 had a balance of \$453M. I submit there are many banks paying investment rates, or better, that have the ability to handle these accounts from county and school districts or you would be seeing a steady increase in the usage and the balance in the MIP.

It appears that we have had a system that worked for Kansas for 65 plus years. We have never had any investment debacles as you have read about in other states. Kansas banks have always paid a fair investment rate for these public funds and will continue to do so. We believe it is very short sighted to open the door and have Kansas capital have the potential of being siphoned off based on some unsubstantiated hope that an out of state bank would pay more than a Kansas bank.

If the taxpayer was educated on those dollars staying at home and being loan back out on their behalf and the multiplier effect that results; I think they would be with Kansas banks in saying these dollars should stay at home.

Senate F I & I Committee

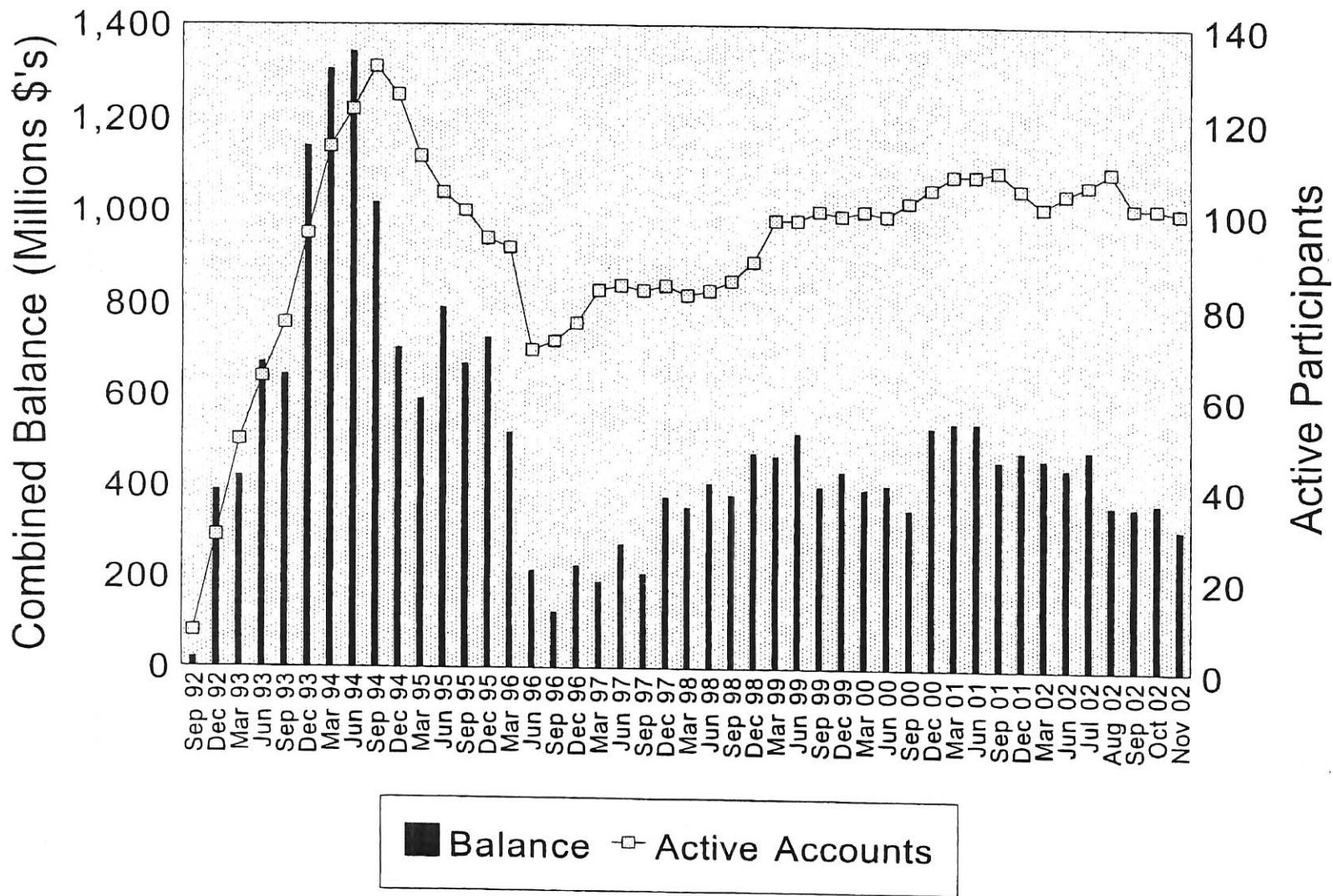
Member F.D.I.C.

Meeting Date: 2-19-03

Attachment No.: ~~7~~ 13

STATE OF KANSAS MUNICIPAL INVESTMENT POOL

12/21/02



13-2



Testimony on
SB 75 – Investment of Public Funds
Before the
Senate Committee on Financial Institutions and Insurance

By
Mark Tallman, Assistant Executive Director/Advocacy

February 19, 2003

Madam Chairman, Members of the Committee:

Thank you for the opportunity to appear today as a proponent of SB 75. The Delegate Assembly of the Kansas Association of School Boards has a long-standing policy position that reads as follows:

“District officials should be allowed to invest district funds in time deposits, certificates of deposit or other authorized investment instruments in any bank or savings and loan institution authorized to operate in Kansas, or any direct obligation of the United States government, such as treasury bills or notes. The board may negotiate the rates of return for investments.”

Based upon this position, we join with the representatives of other local units of government in support of the removal of restrictions on local investment practices. School districts have absorbed an allotment cut in the base budget per pupil in August. We are deeply concerned that state revenues may not be able to sustain the current level of state funding. The Governor’s budget for FY 2004 provides no increase in school funding, and no ending balance to cover any shortfalls in revenue. The prospects for FY 2005 appear equally bleak.

Although KASB believes that the state will have to ultimately raise revenue to meet the needs of both public education and other state priorities, we must continue to look for ways to help school boards operate more effectively. Providing more options for investment of public funds is one way to do that. At the same time, we would stress that the decision on local investment practices would remain with the locally-elected school board. The local community, not the state, should determine where local funds are invested.

Thank you for your consideration.

Senate FI & I Committee

Meeting Date: _____
Attachment No.: 814



MIKE WILDGEN, CITY MANAGER

City of Lawrence KANSAS

CITY OFFICES 6 EAST 6th
BOX 708 66044-0708 785-832-3000
TDD 785-832-3205 FAX 785-832-3405

www.lawrenceks.org

To: Senate Committee on Financial Institutions & Insurance
From: Mayor Sue Hack, City of Lawrence
Date: February 18, 2003
Re: Senate Bill 75 Repealing a Costly State Mandate on City Investment Practices

Dear Senators,

One of the concerns that is highlighted during tough fiscal times is the burden of mandates on local government. For a number of years the City of Lawrence and the League of Kansas Municipalities have supported amendments to municipal investment laws to allow for additional prudent investment opportunities for cities in Kansas. Current state law provides an illogical scheme that favors certain financial entities (State chartered banks versus National chartered banks), and restricts investments with resulting lower yields. Lower investment income translates into less revenue, requiring additional property tax or fee increases to provide resources for municipal services. We continue to urge the Legislature to support legislation allowing for more competitive investment options.

The attached report demonstrates the financial impact of this State mandate on the City of Lawrence. Because State law creates a preference for instruments from financial institutions that meet the State investment benchmark (versus allowing the City to invest in any allowed security instrument with a higher yield), this benchmark requirement meant that the City failed to earn approximately \$600,000 in 2002. This estimated loss is based on the difference between a bid that met the benchmark requirement and the highest available rate offered by other financial institutions bidding to invest City funds. It is important to note that this issue is unrelated to the security of the investment. The State law (K.S.A. 12-1675 et seq.) governing cities (but not the State itself) and the City's investment policy define the risk

SEN FI+I
2-19-03

attachment
#15

Written
SB 75

CITY COMMISSION

MAYOR
SUE HACK

COMMISSIONERS
DAVID M. DUNFIELD
JAMES R. HENRY
MARTIN A. KENNEDY
MIKE RUNDLE



nature of possible City investments. Removing the benchmark requirement would not increase the risk or change the types of investment instruments.

While the \$600,000 loss in 2002 investment income impacts all City funds, including utility resources, it seems entirely appropriate for our legislators to scrutinize our restrictive investment laws and determine if additional investment authority is not in the interest of cities - and ultimately the citizens and taxpayers - of our state.

Thank you for your attention to this important legislation.

Respectfully,

Sue Hack

Sue Hack
Mayor

~~9-2~~
15-2

Memo

To: Dave Corliss, Assistant City Manager
From: Joe Yager, Management Analyst
CC: Ed Mullins, Finance Director
Date: 1/27/2003
Re: Investment Benchmark Rate

Investment Regulations and Benchmark Rates

According to the Kansas Statutes, we are allowed to invest our idle funds in:

- Temporary notes or no-fund warrants of the City of Lawrence
- Certificates of Deposits, accounts, or time deposits of banks headquartered in Kansas and having an office in the City or County
- Repurchase agreements with banks headquartered in Kansas

The Statutes limit the banks we are able to do business with. Kansas Statute 12-1675a states that a "bank" must have a main office in the state. "Main office" is further defined as the "place of business specified in the articles of association, certificate of authority or similar document, where the business or the institution is carried on and which is not a branch." In addition, the Office of the State Bank Commissioner has offered an opinion that a financial institution can have only one main office.

If eligible banks in the City or County cannot or will not make the investments authorized at interest rates greater than the T-Bill rate (Benchmark Rate) for a similar maturity, the City is allowed other investment options.

These investments include:

- US Treasury Bills or Notes
- The Kansas Municipal Investment Pool
- Municipal client investment pools, managed by the trust department of banks

In addition, the City has received expanded investment powers, which allow us greater flexibility in investing under K.S.A. 12-1677b. The maximum length of investments increases from two years to four years, and we can invest in additional types of investments:

- Non-mortgage-backed government agency securities
- Repurchase agreements with primary dealers

Our investment policies and expanded powers are reviewed annually by the Kansas Pooled Money Investment Board each fall.

SEN. FI + I
2-19-03
ATTACHMENT 16

Losses Caused by the Benchmark Rate in 2002

The data in this report was generated through a weekly analysis of investments by the City. Although some of the amounts are small, the percentages, or basis points, are quite substantial. On larger investments this would be even more apparent.

Through analysis of only the investments influenced by the Benchmark rate during 2002 I found the following results:

- The Benchmark average was **1.6833%**
- The CD average was **1.7148%**
- The Highest Rate Available average was **4.1080%**
- The Next Highest Rate Available average was **3.8386%**

This translates into the following key findings:

- The CD Rate yields **\$7,887** more interest than the Benchmark Rate
- The Highest Rate Available yields **\$607,479** more interest than the Benchmark Rate
- The Highest Rate Available yields **\$599,592** more interest than the CD Rate

Another indication of influence from the Benchmark can be seen in the Average Rate of Return during our annual Expanded Powers review period of November 2001 to October 2002. By focusing on these results the following was found:

- The average Pool rate available was **1.98%**
- The average rate of return the City was able to secure **3.06%**
- The Pool does not offer a viable alternative for investments when Benchmark becomes an issue.
- The City must depend upon its Expanded Investment Powers to secure higher rates of return.

Both of these reviews translate into the following:

- The Benchmark rule costs the City of Lawrence more than \$600,000 in potential interest on investments.
- There is no alternative offered by the Pool to offer rates comparable to those offered above Benchmark.
- The exclusion of banks without "Home" definition holds rates down and in turn lowers potential interest for the City of Lawrence.

NOTE: It is important to note that some CD rates are unavailable due to statutory regulations of "Home" bank. Due to definitions and regulations outlined by the Kansas Statutes we were unable to always accept the best rate offering the best return.

If you have any questions regarding any of these findings or would like additional information please contact me.

~~9-9~~
16-2

16-3

INVESTMENT RATES -- 2002

INVESTMENT DATE	MATURITY DATE	DAYS INVESTED	AMOUNT	BENCHMARK	CD RATE*	HIGHEST AVAILABLE RATE*	NEXT HIGHEST RATE	INTEREST AT BENCHMARK	INTEREST AT CD RATE	INTEREST WITH HIGHEST RATE	INTEREST WITH NEXT HIGHEST RATE
1/3/2002	4/3/2002	90	1,945,000.00	1.6700%	1.7000%	1.7981%	1.7413%	8,009.14	8,153.01	8,623.46	8,350.97
1/3/2002	7/2/2002	180	2,080,000.00	1.7300%	1.8000%	1.8729%	1.8582%	17,745.53	18,463.56	19,211.27	19,060.54
1/10/2002	7/9/2002	180	1,320,000.00	1.6900%	1.7500%	4.5500%	4.5400%	11,001.21	11,391.78	29,618.63	29,553.53
1/24/2002	7/23/2002	180	2,255,000.00	1.6600%	1.7500%	4.5000%	4.4500%	18,460.11	19,460.96	50,042.47	49,486.44
1/31/2002	7/30/2002	180	3,360,000.00	1.7400%	1.8500%	4.5000%	4.2700%	28,831.56	30,654.25	74,564.38	70,753.32
2/28/2002	8/27/2002	180	1,790,000.00	1.8500%	1.8500%	5.1420%	4.3650%	16,330.68	16,330.68	45,390.48	38,531.59
3/21/2002	6/17/2002	88	1,980,000.00	1.7600%	1.8000%	5.2500%	4.6500%	8,401.71	8,592.66	25,061.92	22,197.70
4/4/2002	10/1/2002	180	2,115,000.00	2.1600%	2.1600%	5.0000%	4.8000%	22,529.10	22,529.10	52,150.68	50,064.66
4/18/2002	10/15/2002	180	1,290,000.00	1.9400%	1.9500%	5.0000%	4.8000%	12,341.59	12,405.21	31,808.22	30,535.89
4/25/2002	10/22/2002	180	1,485,000.00	1.8700%	1.9000%	5.1000%	4.6250%	13,694.55	13,914.25	37,348.77	33,870.21
5/2/2002	10/29/2002	180	1,470,000.00	1.8600%	1.9000%	4.7500%	4.5000%	13,483.73	13,773.70	34,434.25	32,621.92
5/16/2002	11/12/2002	180	1,675,000.00	1.8300%	1.9000%	4.5000%	4.4000%	15,116.30	15,694.52	37,171.23	36,345.21
5/23/2002	11/19/2002	180	1,440,000.00	1.9000%	1.9000%	4.7990%	4.4000%	13,492.60	13,492.60	34,079.47	31,246.03
5/30/2002	11/26/2002	180	1,430,000.00	1.8400%	1.8500%	4.3500%	4.3000%	12,975.78	13,046.30	30,676.44	30,323.84
6/27/2002	12/24/2002	180	1,905,000.00	1.7700%	1.8000%	4.1600%	4.1600%	16,628.30	16,910.14	39,081.21	39,081.21
7/11/2002	1/7/2003	180	2,740,000.00	1.7300%	1.7500%	4.2500%	4.0300%	23,376.33	23,646.58	57,427.40	54,454.68
7/18/2002	1/14/2003	180	1,210,000.00	1.6900%	1.7300%	4.0700%	4.0600%	10,084.44	10,323.12	24,286.19	24,226.52
7/25/2002	1/21/2003	180	2,400,000.00	1.6500%	1.6500%	4.0200%	4.0000%	19,528.77	19,528.77	47,579.18	47,342.47
8/1/2002	1/28/2003	180	3,400,000.00	1.6200%	1.6500%	4.6500%	4.0000%	27,162.74	27,665.75	77,967.12	67,068.49
8/8/2002	2/4/2003	180	1,030,000.00	1.5400%	1.5400%	3.7500%	1.6040%	7,822.36	7,822.36	19,047.95	8,147.44
8/15/2002	2/11/2003	180	1,950,000.00	1.5700%	1.5700%	3.5600%	3.3500%	15,097.81	15,097.81	34,234.52	32,215.07
8/22/2002	2/18/2003	180	1,800,000.00	1.5700%	1.6000%	3.5600%	3.5600%	13,936.44	14,202.74	31,601.10	31,601.10
8/29/2002	2/25/2003	180	2,300,000.00	1.6400%	1.6400%	4.0200%	3.7100%	18,601.64	18,601.64	45,596.71	42,080.55
10/3/2002	4/1/2003	180	3,390,000.00	1.4600%	1.5000%	3.5000%	3.5000%	24,408.00	25,076.71	58,512.33	58,512.33
11/21/2002	5/20/2003	180	1,400,000.00	1.2300%	1.2800%	3.5000%	3.5000%	8,492.05	8,837.26	24,164.38	24,164.38
12/5/2002	6/3/2003	180	2,210,000.00	1.2500%	1.2700%	3.6250%	3.3700%	13,623.29	13,841.26	39,507.53	36,728.38
12/19/2002	6/17/2003	180	1,410,000.00	1.2300%	1.2600%	3.1400%	3.1000%	8,552.71	8,761.32	21,833.75	21,555.62
Total		4678	52,780,000.00	1.6833%	1.7148%	4.1080%	3.8386%	421,738.35	429,625.65	1,029,217.77	961,725.61

Averages	
Investment Date	6/7/2002
Maturity Date	11/27/2002
Days Invested	173
Amount	1,954,814.81
Benchmark	1.6833%
CD Rate	1.7148%
High Rate	4.1080%
Next Highest Rate	3.8386%

Potential Loss of Interest	
Number of Investments	27
Total Interest Available from Benchmark	421,738.35
Total Interest Available from CD Rate	429,625.65
Total Interest Available from High Rate	1,029,217.77
Potential Loss (High - Bench)	607,479.42
Percentage Lost	59.02%
Actual Loss (High - CD)	599,592.12
Percentage Lost	58.26%

* Some CD Rates are higher than Benchmark, but not available due to KSA 12-1675a's definition of Bank and Main Office, thus the Highest Available Rate may be lower.

Note: All of these entries represent those investments where Benchmark or current laws caused a loss in interest.
 Note 2: During the month of September Commerce Bank had reached its 30% single bank limit for CDs and the benchmark did not effect any investments.

16-3

Additional Data

1

City of Lawrence
Average Rate of Return

Month	PMIB	Lawrence
11/30/2001	2.06	3.60
12/31/2001	2.14	3.35
1/31/2002	1.97	3.24
2/28/2002	2.04	2.99
3/31/2002	2.52	3.11
4/30/2002	2.47	3.18
5/31/2002	2.27	3.06
6/30/2002	2.12	3.01
7/31/2002	1.70	2.99
8/31/2002	1.48	2.69
9/30/2002	1.50	2.70
10/31/2002	1.50	2.77
Average	1.98	3.06

~~16-4~~
16-4

Written
SB 75

2



Patricia Holden
Vice President
Midwest Government Affairs

Bank of America
IL1-231-08-20
231 South LaSalle Street
Chicago, IL 60697

Tel 312.828.6204
Fax 312.974.8284

February 18, 2003

The Honorable Ruth Teichman
Chairman Financial Institutions and Insurance Committee
Kansas Senate
Room Number: 143-N
Kansas State Capitol
300 SW 10th St.
Topeka, Kansas 66612

Dear Chairman Teichman:

Thank you for the opportunity to submit comments on SB 75, which allows all banks who have a branch in Kansas to accept political subdivisions' deposits. Bank of America supports the legislation because it provides municipalities the option to shop the market for the best services and the best rates for the taxpayers' monies. It is the fiduciary responsibility of the municipalities to make certain that they are getting the best rate for their funds. Bank of America believes that municipalities should have the same option as the residents and the businesses in Kansas to shop the market to find the best financial institution to meet their needs. As a result of the current law, Kansas is the only state that does not permit competition between all banks operating in a state.

While competition is important, I understand the concern that the monies deposited by the municipalities should stay in Kansas. It is my understanding that there is a misconception about how Bank of America treats its deposits it receives in Kansas. It has been stated that those deposits leave the state for our home-chartered state of North Carolina. While I will immediately concede, that we are a nationally chartered bank whose headquarters are in North Carolina, the numbers do not bear out the contention that deposits made to Bank of America in Kansas leave the state of Kansas. On the contrary, let me give you some numbers. In 2002, our Kansas deposits were **\$2.8 billion** (that number in 2001 was \$2.5 billion). Our loan commitments were as follows:

- Residential real estate original loan commitments for one-to four-family homes with balances outstanding **\$2.19 billion**
- Commercial and other real estate original loan commitments with balances outstanding **\$438 million**
- Home equity original loan/line commitments with balances outstanding **\$410 million**
- Auto, education and home improvement loans and unsecured lines of credit **\$353 million**

Bank of America is a major source of capital to a wide range of companies. The bank is among the top three domestic providers of commercial and industrial loans worldwide. Our commercial finance company offers fully secured revolving and term loans to middle-market businesses across the country through our business credit offices. Our current committed lines of credit to corporations in Kansas during 2001 included:

- Middle-market corporate customers **\$30 million**
- Large corporate customers **\$3.4 billion**



SEN. FI + I
2-19-03
ATTACHMENT 17

Bank of America's support for the vitality of the small-business economic sector is strong as well. Today, the bank in Kansas has:

- Credit line and loan commitments to small businesses **\$185 million**
- Conventional loans less than \$100,000-number of loans/credit lines outstanding 2,440
- Agribusiness loan commitments with balances outstanding (business and real estate loans) **\$353 million**

It is our goal to be the number one SBA lender in the country in 2003.

Let me provide you some additional information about the Bank of America in Kansas to underscore our commitment to Kansas. The Bank of America presence in Kansas supports the local economy by providing jobs, paying taxes and occupying commercial space. Our associates also contribute to this effect because they live where they work, buy from merchants, and pay taxes. The bank's presence includes:

- Number of associates by workplace (Data as of January, 2003) **1,683**
- Bank facilities
 - Square footage of office space the bank occupies **771,658**
 - Number of non-banking center business units **63**
 - Number of banking and in-store centers **63**
- Number of ATM machines **153**

The Kansas Bank of America does business with local vendors. From January 1, 2000 - December 31, 2001 we purchased **\$62.5 million** in goods and services in Kansas.

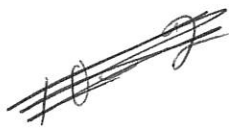
The Bank of America Foundation directs charitable giving on behalf of Bank of America. The Bank of America Foundation contributes financial assistance to nonprofit institutions and organizations that enhance the quality of life and promote public interest in the areas where the company conducts business. The Bank of America Foundation is committed to improving lives by providing educational opportunities, building inclusive communities, and promoting cultural outreach. Our contributions in Kansas for 2002 were nearly **\$1 million**.

Madam Chairman, I do not present these numbers to tout Bank of America, but to show you that our headquarters may be in Charlotte but our heart is in Kansas. Give us the opportunity to conduct business with the municipalities in which we live and work.

Thank you for the opportunity to submit this letter today. I would be glad to answer any questions or appear before this committee at a later date.

Sincerely,

Patricia M. Holden
Vice President State and Local Lobbyist



17-2



SB 75
Whitten

**Senate Financial Institutions & Insurance Committee
Senator Teichman, chair**

**S.B. 75
Investment of public funds**

February 18, 2003

*Submitted by: Diane Gjerstad
Wichita Public Schools*

Madam Chair, members of the committee:

The Wichita Public Schools rise in support of S.B. 75, a bill permitting schools and school districts to deposit funds in any federally insured bank without regard to where the charter is held.

For public schools the issue of placing funds solely in Kansas charter banks has been at the least inconvenient and usually confusing to the clerks and secretaries in charge of activity funds.

Wichita has about one hundred buildings, most of which maintain checking accounts for activity funds and some have small certificates of deposits. These funds are the results of thousands of bake sales, booster club activities, candy and gift wrap sales. All these hours of activity result in modest amounts of money which are then deposited.

Often the school secretary is tasked with making many small deposits throughout the school year. Today it is not usual for the secretary to be forced to drive past several banks – simply because the bank closest to the school is not chartered in Kansas.

The problem becomes even more exasperating to the secretary if a non-Kansas chartered bank purchases the bank the school uses. Then, simply because of where the charter is held, the secretary has to shop for a new building, probably drive farther, buy new checks, and may have to prematurely cash in a certificate of deposit.

Current law is inefficient and inconvenient to schools.

Thank you, Madam Chair, many school secretaries in my community would welcome this change to current statute.

SEN. FL+I
2-19-03

Attachment
18



**KANSAS
ASSOCIATION OF
COUNTIES**

WRITTEN TESTIMONY
concerning Senate Bill No. 75
Depositories for Public Funds

Presented by Randy Allen, Executive Director
Kansas Association of Counties
February 18, 2003

Madam Chair and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to submit written testimony today in support of Senate Bill No. 75, which would provide additional options for counties in the deposit of their public funds.

Currently, counties are barred from designating banks without charters or home offices in the state of Kansas as their depositories for county funds. This has the effect of stifling competition among banks for counties' financial services. Our primary reason for supporting SB 75 is to give county decision-makers who are the most sensitive to local concerns and local taxpayers the **option** to deposit county funds in the bank(s) which provides the most optimal return and best level of services to the county – regardless of where it is chartered or where its home office is located.

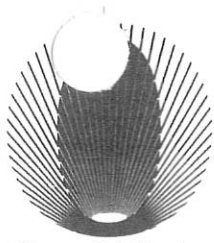
SB 75 would not restrict any county from continuing to designate a local, Kansas-chartered bank as its depository. In fact, we envision a continued sensitivity of boards of county commissioners to doing business locally as much as possible while at the same time protecting local financial interests by securing the best advantage for local taxpayers. Currently, the playing field is not level and non-Kansas chartered banks are at a competitive disadvantage. More importantly, local taxpayers are at a disadvantage when elected officials cannot optimize their placement of public funds. Our interest in this legislation is not in advancing the interests of non-Kansas based banks but rather to give boards of county commissioners additional options to invest county funds where it optimizes their return for their citizens and taxpayers.

In summary, the Kansas Association of Counties views this as an issue of local control. We believe the public interest is advanced by removing the current restriction for counties to designate non-Kansas banks as county depositories. Thank you for the opportunity to comment on this bill.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

*FZ & I
Attachment 19
2-19-03*



City of Olathe

SB 75 w

MEMORANDUM

TO: Members of the Senate Financial Institutions and Insurance Committee

FROM: Donald R. Seifert, Policy Development Leader *DRS*

SUBJECT: **Senate Bill 75;** Depositories for Public Funds

DATE: February 19, 2003

On behalf of the city of Olathe, thank you for the opportunity to submit this statement in support of SB 75. This bill would authorize cities to designate any federal or state chartered financial institution as a depository for city funds. Under current law, local governments are authorized to deposit funds only in Kansas chartered banks with branches in the local community. This requirement limits the number of otherwise qualified banks eligible to provide banking services and act as depositories for public funds.

The city of Olathe recognizes that efficient cash management is an integral component of effective financial management. The city council has adopted an investment policy that governs the investment of funds until they are needed for the city's operations. At any point in time, the city maintains an investment portfolio of \$90-100 million. The city's investment policy has been approved by the Pooled Money Investment Board (PMIB) for expanded investment authority under K.S.A. 12-1677b.

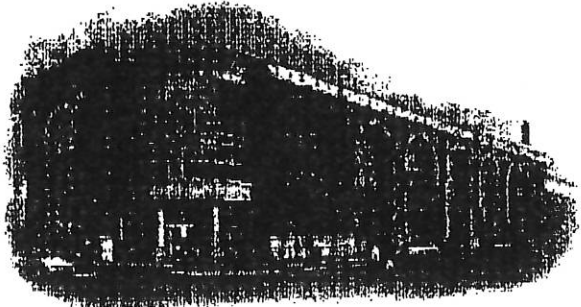
The city believes this bill is good public policy for several reasons:

1. Elimination of the state charter requirement will allow more competition for public funds. The city periodically requests proposals from financial institutions for both its banking services and investments. Under current law, response to proposals is restricted by location of bank charter and branch geography. More competition should enhance service and encourage more competitive rates when taking deposits from units of local government. This benefits the local taxpayers, and is especially important at this time when investment rates are low.
2. The bill will not compromise safety of public funds. No changes are proposed in allowable investments or the required security for those investments.
3. This bill reflects the banking industry environment. Many communities simply do not have a Kansas chartered bank within their boundaries, but may have a number of federally chartered institutions competing and providing services to private customers. We believe the benefit of competition should also be extended to public customers.

Thank you for the opportunity to support SB 75. The city urges the committee to recommend this bill favorably.

*SEN. FI+I
2-19-03
Attachment 20*

Written Testimony



**FINANCE/HUMAN RESOURCES
DEPARTMENT**

LYON COUNTY COURTHOUSE
430 COMMERCIAL
EMPORIA, KS 66801

LARRY TUCKER-DIRECTOR #620-341-3420

February 19, 2003

To: Senate Committee on Financial Institutions and Insurance

From: Larry Tucker
Director of Finance & Budget/Investment Officer
Lyon County Kansas

Re: SB 75 Deposit of Public Funds - Proponent

I am submitting comments in favor of Senate Bill No. 75, to eliminate various restrictions limiting the use of out-of-state depositories for public funds.

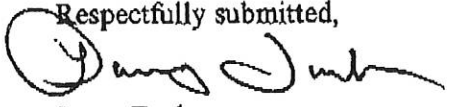
Currently, our county has an out-of-state financial institution with a branch office located in our municipal jurisdiction. However, we cannot use them as an official depository for idle funds. The wording of this senate bill would remove that restriction.

By removing this restriction it would give our county another institution to offer idle funds for bid, which would make our local institutions more competitive. Over the last year we have offered local banks \$ 10 million for bid and only \$ 3 million have been offered and accepted.

Finally, as new technology and fiscal controls from financial institutions become available, this will allow banks and other institutions to offer new and better cost efficient options in the daily processing of transactions for all types of financial customers.

It is my understanding that Kansas is the only state that places this restriction on local governments. It is time that we eliminate this restriction and put all financial institutions operating in Kansas on a level playing field.

Please support and pass Senate Bill 75. Thank you for your consideration.

Respectfully submitted,


Larry Tucker
Director of Finance & Budget
Lyon County

c.c. Lyon County Board of County Commissioners

SEN. FI + I
2-19-03
Attachment 21



Johnson County, Kansas

OFFICE OF THE COUNTY MANAGER

~~Written Testimony~~
SB 75
writ - 1

Testimony in support of SB 75
presented to the
Senate Financial Institutions and Insurance Committee
by
Danielle Noe
Intergovernmental Relations Coordinator
February 19, 2003

Thank you for the opportunity to present testimony on behalf of the Johnson County Board of County Commissioners in support of SB 75.

SB 75 would allow cities and counties the option to designate any federal or state-chartered financial institution with a physical presence in Kansas, as a depository for their funds. Municipalities that wished to continue to place funds in their local bank would still be able to do so at the discretion of the municipality; the language is merely permissive. Current law significantly limits the choices cities and counties have regarding depository financial institutions. At the same time, the State of Kansas enjoys the flexibility of being able to deposit funds in any financial institution with a physical presence in Kansas.

For Johnson County, the impact of these limitations is magnified because the number of state-chartered banks capable of handling the size and activity of the County's accounts continues to decline due to ongoing mergers and acquisitions within the financial services sector. This lack of competition potentially keeps costs of banking services higher, yields on cash balances lower, and customer service less of a priority.

In short, the Board believes SB 75 is a prudent step toward enabling local governments to conduct business at the lowest net cost, thereby passing potential savings on to taxpayers.

For these reasons, the Johnson County Board of Commissioners strongly urges you to support SB 75. Thank you for your consideration.

2-19-03
FI&I
Attachment 22



The City of
**Overland
Park**
KANSAS
8500 Santa Fe Drive
Overland Park, Kansas 66212
913-895-6100 • Fax: 913-895-5003
www.opkansas.org

SB 75 Written

City Manager's Office

~~Danielle Noe~~
Eric Santorius

Testimony Before
The Senate Financial Institutions & Insurance Committee
Regarding
Senate Bill 75

February 19 2003

The City of Overland Park appreciates the opportunity to testify in favor of Senate Bill 75, a bill that would allow local government to place idle funds with institutions that are not chartered by the state. We believe this legislation would allow cities important flexibility in the managing of taxpayer money.

The options given to cities by SB 75 would increase competition for the use of taxpayer dollars by financial institutions. Increased competition would aid efforts to maximize interest earnings on idle funds, improving our city's revenue picture and helping offset the need for property tax increases.

Current Kansas investment laws create an artificial investment barrier for local governments that does not protect the best interests of the taxpayer. The State of Kansas recognized the imprudence of limiting itself to state-chartered institutions, and no longer subjects itself to this limitation.

Senate Bill 75 provides an economic buffer to local governments during a slowdown in the local economy. The U.S. economy often experiences slowdowns differently in different regions. A financial institution in one region may have its need for loan funds drop off while financial institutions outside that region still have steady loan demands. By allowing financial institutions outside of Kansas to bid, local governments can benefit from the greater level of competition. This diversity among financial institutions holding local governments' funds also helps minimize credit risks.

Given the budgetary challenges faced by local governments, removing this antiquated requirement from Kansas law makes sense. We ask that you recommend Senate Bill 75 favorably, and support this bill's financial common sense and the protection of taxpayer funds.

SEN. FI+I
2-19-03
Attachment 23