

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 20, 2008 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Ryan Hoffman, Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Senator McGinn
Patty Dengler, Inter-Faith Ministries
Chris Wilson, Kansas Builders Industries Association

Others attending:

See attached list.

HB 2928 - Enacting the Senior Citizen Property Tax Deferral Act.

The Chairman reminded the Committee that the Holland balloon had been amended into the bill and they are back on the bill.

Representative Brown made a substitute motion to table HB 2928. Representative Schroeder seconded the motion. The motion failed.

Representative Dillmore made a motion to move HB 2928 out, as amended, favorable for passage. Representative Treaster seconded. After discussion, Representative Dillmore closed his motion. The motion carried.

HCR 5015 - State constitutional amendment, taxation; watercraft

Representative King made a motion the committee move HCR 5015 out, favorable for passage. Representative Goyle seconded. The motion carried.

SB 444 Property tax exemption for certain tangible personal property with purchase price less than \$1,500.

Representative Siegfried made a motion to amend the language of HB 2500 into SB 444. Representative Carlson seconded. Representative Siegfried reviewed the history of the bill and closed his motion. The motion carried.

Representative Carlson said HB 2500 is 2007 legislation, and requires a technical amendment to bring it into 2008. He moved that amendment Representative Owens seconded. The motion carried.

Representative Whitham made a motion to change the amount of \$1,500 to \$750, as listed on page 1, line 23 of SB 444. Representative Menghini seconded the motion. The motion carried.

Representative Davis made a motion to remove the "tangible" reference, listed on page 4, lines 36-37 that states; and all intangible property including moneys, notes and other evidences of debt, and the income derived therefrom, Representative Whitham seconded the motion. The motion carried.

Representative Owens made a motion to amend and change the word mother to parent. Representative Menghini seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 20, 2008 in Room 519-S of the Capitol.

Representative Carlson made a motion that the Taxation Committee pass out SB 444, as amended, favorable for passage. Representative Siegfroid seconded the motion. The motion carried.

SB 383 - Property tax exemption for the elderly, persons with disabilities or low income housing owned by certain organizations.

Chris Courtwright, Legislative Research Department, said housing for the elderly, persons with disabilities, and low income individuals is exempt from property tax, if the residences are owned and operated by an organization recognized as a community housing development organization by the Kansas Housing Resources Corporation. **SB 383** would extend this tax exemption for these types of residences if they are owned and operated by a limited partnership or limited liability company formed for the purpose of developing low income housing to access federal income tax credits. Passage of **SB 383** would decrease property tax revenues by creating another tax exemption. The Department of Revenue is unable to provide a precise estimate of the reduction in revenue, because it does not know the number of additional residences that would be exempted from property tax if **SB 383** were enacted.

The Chairman opened the public hearing.

Senator McGinn, said **Substitute for SB 383**, was approved unanimously by the Senate on February 28, 2008. This bill has been narrowed considerably to address issues raised by BOTA. She urged the Committee to adopt this bill and invited Patty Dengler to the podium to provide details of the bill (no written testimony).

Patty Dengler, Inter-Faith Ministries, said that the current statute has limited application and only assists not-for-profit community housing development organizations (CHDO) recognized by the Kansas Housing Resource Corporation (Attachment 1) She requested that they pass the amendment included in **Substitute for SB 383**. She explained the bill changes the statute in three respects but preserves the purpose for the exemption, development of property for low income housing.

It was noted that testimony from Chris Wilson, Kansas Builders Industries Association, in support of SB 383, was distributed (Attachment 2).

The Chairman recessed the meeting at 9:55 A.M. for the House session. Upon adjournment of the House, the Chairman reconvened the Taxation Committee meeting at 11:20 A.M.

Chairman Wilk advised the Committee that, by consent, they have parked **SB 383**, and advised the conferees, it is not their intent to take up **SB 383**. The Chairman requested proponents of the bill get together with Sedgewick County Committee members in order to determine where they stand on a conference report.

SB 510 - Property tax exemption; certain farm machinery and equipment.

Gordon Self, Office of the Revisor of Statute, distributed a balloon amendment on **SB 510** and said the balloon adds New Section. 2 that provides classification language for property tax purposes (Attachment 3).

Representative Wilk moved the adoption of the balloon. Representative Carlson seconded. The motion carried.

Rep Carlson made the motion that the Taxation Committee move out SB 510, as amended, favorable for passage. Representative Siegfroid seconded the motion. The motion carried.

The Chairman adjourned the meeting at 12:15 P.M. The next meeting is March 24, 2008.

HOUSE TAXATION COMMITTEE

DATE: March 20, 2008

NAME	REPRESENTING
Ron Sceber	Hendlaw Firm
Matt Goddard	HCBA
Jim Mass	Spirit Aero System
Tony A. Scott	KSCPA

WRITTEN TESTIMONY

TO THE HOUSE TAXATION COMMITTEE

BY PATRICIA DENGLER, COUNSEL FOR INTER-FAITH DEVELOPMENT CORPORATION AND INTER-FAITH MINISTRIES WICHITA, INC.

PRESENTED ON MARCH 20, 2008

Support for Substitute for S.B. 383, which proposes to amend K.S.A. 79-201z

Thank you, Representative Wilk and committee members, for allowing this hearing on the Substitute for S.B. 383. This bill amends K.S.A. 79-201z, a statute that exempts certain real and tangible personal property from *ad valorem* taxation. I am counsel for Inter-Faith Development Corporation and Inter-Faith Ministries Wichita, Inc., Kansas not-for-profit tax-exempt corporations and I am here to testify in support of the Substitute for S.B. 383, which was approved unanimously by the Senate on February 28, 2008.

The current statute has limited application. It only assists not-for-profit community housing development organizations (CHDO) recognized by the Kansas Housing Resource Corporation (KHRC) that provide housing for the elderly, persons with disabilities or persons with limited or low income. Substitute for Senate Bill No. 383 is the culmination of our efforts in meeting with and working with representatives from the Department of Revenue, Property Valuation Division (PVD), the Kansas Housing Resource Corporation (KHRC) and the Revisor to develop appropriate but not expansive language for this exemption.

The amendment changes the statute in three respects but preserves the purpose for the exemption, development of property for low income housing.

First, it expands the types of legal entities allowed to benefit from the exemption to include limited partnerships, limited liability companies and corporations in addition to CHDOs. In many low income housing developments, a limited partnership or limited liability company will be formed and will own the property. A not-for-profit organization will be the general

partner or managing member in control of the development. The limited partner or non-managing member will generally be a for-profit entity which will enable the newly formed entity to access Section 42 income tax credits for financing purposes. The non-profit will transfer its tax credits to a for-profit entity in exchange for the financing to develop affordable housing for low income persons. This change recognizes the variety of legal entities involved in affordable, or low income, housing developments and allows them to have the same benefits as CHDOs, provided these entities meet the other restrictions in the amendment.

Secondly, the amendment describes the type of financing that must be used by these entities to acquire the exemption for the property. The possible financing mechanisms include Section 42, HOME investment partnership funds, or other sources, public or private, available only for low income housing. The definition for low income housing was suggested by KHRC since it is a standard definition that is commonly used for low income housing financing. This definition distinguishes the use from any other housing developments. The Section 42 program gives states the equivalent of nearly \$5 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. The tax credits add another component available to entities that may not have all of the funding available, either through government grants or individual or corporate contributions. The Kansas Department of Housing administers the Section 42 program. HOME investment partnership funds, mentioned in the statute, are administered by the Kansas Housing Resource Corporation and also by cities and counties. One of my clients accessed its HOME funds from the City of Wichita but it was not organized as a CHDO.

Finally, the amendment specifies that the sole limited partner or the sole managing member of the owner-operator or the entity itself must be not-for-profit and recognized as a 501(c)(3) tax exempt entity by the IRS. In other words, legal and operational control will be retained by a not-for-profit organization.

This amendment will continue to assist not-for-profit organizations involved in affordable housing developments but it will expand the number of eligible entities and thus, the number of projects. We believe that this is an appropriate and beneficial solution to the affordable housing problem faced by senior citizens, disabled and low income Kansans. Based upon the controls that are included in this amendment, we believe that developments for higher income residents will not qualify for an exemption.

Let me explain why the current statute and other exemption statutes inhibit the development of affordable housing for these populations. My client's situation will serve as one example.

Inter-Faith Ministries has existed in Wichita for over 120 years. One of its ministries works on solutions to the homeless and chronic homeless problem in Sedgwick County. It owns and operates a temporary shelter for the homeless or jobless, and another shelter, which provides temporary housing and care for the chronically mentally ill homeless population. Both of these shelters received *ad valorem* exemptions based on humanitarian services which serve a community need, K.S.A. 79-201 Ninth.

The third phase of Inter-Faith Ministries' homeless ministry is what brings us here today in support of S.B. 383. Beginning in 2002, IFM opened two permanent apartment housing developments with supportive services, Villa Central and Villa North. The residents of both of these apartment projects are chronic homeless disabled due to mental illness, drug and alcohol abuse or physical disabilities. The residents include the elderly, men, women and families with children. One property, which has 37 units, is owned by a limited partnership which is operated by IFM as the general partner but the limited partner is a for-profit entity. Its funding sources were the acquisition of Section 42 low income tax credits, supportive services housing grants under the McKinney-Vento Homeless Assistance Act, a HUD grant, a conventional loan and contributions. The second property, which has 24 units, is owned by Inter-Faith Development

Corporation, a Kansas not-for-profit corporation which is a controlled subsidiary of IFM. It was financed with HUD funding through the HOME Investment Partnership program administered by the City of Wichita, HUD supportive services and housing grants and contributions.

What distinguishes both of these projects from other apartment developments is that IFM provides supportive services, or case management, to steer the residents to a productive existence. The residents do not pay for the supportive services but they do pay below market rent, which includes utilities. Many receive assistance through Section 8 vouchers for housing. Safe and affordable housing stabilizes one aspect of a low income person's existence so he or she can devote attention to job training, health care and other needs while becoming a productive member of the community.

My clients, beginning in 2004, applied for exemptions from *ad valorem* taxation for these affordable housing projects based upon two exemption statutes and the Kansas Constitution. Sedgwick County agreed with both of these applications. In 2006, the Board of Tax Appeals denied both applications since the projects were viewed as simply housing projects that did not have the specific financing from sources mentioned in one exemption statute. Further, as a housing project, based upon an earlier Kansas Court of Appeals case, the humanitarian services exemption could not be used. When we appeared before BOTA to argue the case, they suggested we seek a legislative solution to this dilemma, which is why we are here today in support of Substitute for S.B. 383.

I am aware of another organization in Kansas, a limited partnership, that applied for exemption for its affordable housing property under the current statute but BOTA denied its application. The denial was based on the fact that the applicant had a for-profit limited partner which excluded the exemption under the current statute's requirement that the property be "solely owned" by a not-for-profit CHDO recognized by the KHRC. This amendment would solve that problem.

As K.S.A. 79-201z is currently written, these projects of my client, and possibly others around the state that are organized to solve the affordable housing for low income citizens, are not able to receive exemption from *ad valorem* taxation. If these projects are only going to be considered as housing, there are no other statutory housing exemptions for which they would qualify. That inhibits the development of affordable housing for low income and very low income residents which is normally undertaken by not-for-profit organizations. The need for the development of affordable housing clearly exists throughout Kansas. Safe and affordable shelter is a basic need for all residents. This situation can be corrected with the proposed amendment in the Substitute for S.B. 383.

Thank you for your consideration of this request.



**STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION
TO THE HOUSE TAXATION COMMITTEE
REPRESENTATIVE KENNY WILK, CHAIR
REGARDING S.B. 383**

March 20, 2008

Chairman Wilk and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association (KBIA). KBIA is the statewide trade and professional organization of the home building industry. We appreciate your hearing of S.B. 383 and the opportunity to submit comments in support of this bill.

S.B. 383 corrects a problem with housing for the elderly, persons with disabilities or persons with limited or low income being eligible for property tax exemptions. This type of housing is very important to Kansas and is the type that has been exempted under current statutes. However, the legal structure for these projects does not qualify under the current language in the statute. S.B. 383 corrects that by expanding the types of legal entities allowed to benefit from the exemption, but retains the requirement of the purpose for the housing developments. These projects have the support of their community and county for the exemption – they just don't quite fit the current statute.

This bill was requested last Session by Senator McGinn, in response to encouragement from Sedgwick County and the Board of Tax Appeals to Interfaith Ministries of Wichita to seek a

change in the statute to correct this situation. When the bill was heard in the Senate Committee, there was strong support for the intent of the bill but concern that the language be narrowly crafted to provide the exemption for this type of entity. Interfaith Ministries worked with the Revisor, PVD, and KHRC to craft the revised language in the bill you have before you. That language passed the Senate 40-0.

Senators envisioned that this bill can help encourage more housing for the very needy, as is being very successfully provided in Wichita through Interfaith Ministries. KBIA supports this bill for that reason as well. We appreciate all the work of Interfaith Ministries, KHRC and the Department of Revenue in fine tuning the language in this bill. We urge the Committee to recommend S.B. 383 favorable for passage.

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SENATE BILL No. 510

By Committee on Assessment and Taxation

1-29

Proposed Amendments
to Senate Bill No. 510

10 AN ACT concerning property taxation; relating to exemptions; certain
11 farm machinery and equipment; amending K.S.A. 2007 Supp. 79-201j
12 and repealing the existing section.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2007 Supp. 79-201j is hereby amended to read as
16 follows: 79-201j. The following described property, to the extent specified
17 by this section, shall be exempt from all property or ad valorem taxes
18 levied under the laws of the state of Kansas:

19 (a) All farm machinery and equipment. The term “farm machinery
20 and equipment” means that personal property actually and regularly used
21 in any farming or ranching operation. The term “farm machinery and
22 equipment” shall include: (1) Machinery and equipment comprising a
23 natural gas distribution system which is owned and operated by a non-
24 profit public utility described by K.S.A. 66-104c, and amendments
25 thereto, and which is operated predominantly for the purpose of provid-
26 ing fuel for the irrigation of land devoted to agricultural use; ~~and~~ (2) *any*
27 *bed, body or box that is attached to a motor vehicle and is actually and*
28 *regularly used in any farming or ranching operation, except for a bed,*
29 *body or box that is attached to the motor vehicle by the motor ve-*
30 *hicle manufacturer; and* (3) any greenhouse which is not permanently
31 affixed to real estate and which is used for a farming or ranching opera-
32 tion. The term “farming or ranching operation” shall include the opera-
33 tion of a feedlot, the performing of farm or ranch work for hire and the
34 planting, cultivating and harvesting of nursery or greenhouse products,
35 or both, for sale or resale. The term “farm machinery and equipment”
36 shall not include any passenger vehicle, truck, truck tractor, trailer, sem-
37 itrailer or pole trailer, other than a farm trailer, as the terms are defined
38 by K.S.A. 8-126 and amendments thereto.

39 The provisions of this subsection shall apply to all taxable years com-
40 mencing after December 31, ~~1999~~ 2007.

41 (b) (1) All aquaculture machinery and equipment. The term “aqua-
42 culture machinery and equipment” means that personal property actually
43 and regularly used in any aquaculture operation. The term “aquaculture

1 operation" shall include the feeding out of aquatic plants and animals;
2 breeding, growing or rearing aquatic plants and animals; and selling or
3 transporting aquatic plants and animals. The term "aquaculture machin-
4 ery and equipment" shall not include any passenger vehicle, truck, truck
5 tractor, trailer, semitrailer or pole trailer.

6 (2) All Christmas tree machinery and equipment. The term "Christ-
7 mas tree machinery and equipment" means that personal property ac-
8 tually and regularly used in any Christmas tree operation. The term
9 "Christmas tree operation" shall include the planting, cultivating and har-
10 vesting of Christmas trees; and selling or transporting Christmas trees.
11 The term "Christmas tree machinery and equipment" shall not include
12 any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole
13 trailer.

14 The provisions of this subsection shall apply to all taxable years com-
15 mencing after December 31, 1992.

3. 16 ~~Sec. 2.~~ K.S.A. 2007 Supp. 79-201j is hereby repealed.

17 ~~Sec. 3.~~ This act shall take effect and be in force from and after its

4. 18 publication in the statute book.

New Sec. 2. In accordance with the provisions of section 1 of article 11 of the constitution of the state of Kansas, a bed, body or box that is regularly used predominantly in a business or industry and is attached to a motor vehicle, except for a bed, body or box that is attached to the motor vehicle by the motor vehicle manufacturer, shall be classified for property tax purposes within subclass 5 of class 2 of section 1 of article 11 of the constitution of the state of Kansas. All such property shall be valued in accordance with the provisions of subsection (b)(2)(E) of K.S.A. 79-1439, and amendments thereto.