

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on January 27, 2010, in Room 152-S of the Capitol.

All members were present except:

Senator Tom Holland- excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Dennis McKinney, State Treasurer
Matt Goddard, Heartland Community Bankers Assn.
Luke Bell, Kansas Association of Realtors
Phil Perry, Home Builders Association
Martha Neu Smith, Kansas Manufactured Housing
Mike Michaelis, Ellis County Coalition for Economic Development
Doug Wareham, Kansas Bankers Association
Tom Thull, State Bank Commissioner
Shawn Mitchell, Community Bankers Association
Haley DaVee, Kansas Credit Union Association
Doug Wareham, Kansas Bankers Association

Others attending:

See attached list.

Dennis McKinney, State Treasurer ([Attachment 1](#))
Matt Goddard, Heartland Community Bankers Assn. ([Attachment 2](#))
Luke Bell, Kansas Association of Realtors ([Attachment 3](#))
Phil Perry, Home Builders Association ([Attachment 4](#))
Martha Neu Smith, Kansas Manufactured Housing ([Attachment 5](#))
Mike Michaelis, Ellis County Coalition for Economic Development ([Attachment 6](#))
Doug Wareham, Kansas Bankers Association ([Attachment 7](#))
Dennis McKinney, State Treasurer ([Attachment 8](#))
Tom Thull, State Bank Commissioner ([Attachment 9](#))
Luke Bell, Kansas Association of Realtors ([Attachment 10](#))
Shawn Mitchell, Community Bankers Association ([Attachment 11](#))
Haley DaVee, Kansas Credit Union Association ([Attachment 12](#))
Doug Wareham, Kansas Bankers Association ([Attachment 13](#))

The Chair called the meeting to order. There were no bill introductions.

Hearing on

SB 382 - Housing loan deposit program, eligibility of certain dwellings, outstanding loan amount limit.

The Chair asked Melissa Calderwood, Research Department, for an overview of the bill. She stated that SB 382 would amend the Housing Loan Deposit Program which provides qualified builders and developers in Kansas access to loans totaling \$60 million. She said with the current program, one-half of this money is designated to nine specific Kansas cities until the end of Fiscal Year 2011 and the rest left undesignated. She noted that amendments in SB 382 would open the loan program for construction of multi-family dwellings; alter the limit on the value of eligible housing to the average purchase price for the state as established by the State Treasurer through regulations based on the requirements in the Internal Revenue Code of 1986, for homes eligible for mortgage revenue bonds.

CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on January 27, 2010, in Room 152-S of the Capitol.

State Treasurer, Dennis McKinney, testified in support of SB 382. Mr. McKinney said this bill was initially adopted by the Legislature in 2008 to provide qualified builders and developers in Kansas access to \$60 million in loans. He said as originally approved by the Legislature, \$30 million of the loan fund is available statewide and \$30 million is designated for areas impacted by tornado and flooding damage in 2007, including the cities of Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha, or Osawatomie. He said the full loan fund would then be made available for affordable housing construction statewide beginning Fiscal Year 2012. He continued that the Passage of SB 382 will help to create new jobs in Kansas first, by revising impediments in the current program and, second, by improving the affordable housing stock in Kansas it will place the state in a better position to attract new business and jobs. (Attachment 1)

Matt Goddard, Heartland Community Bankers Association, testified in support of SB 382. Mr. Goddard stated that Heartland Community Bankers Association members have identified two primary problems with the current law. First, the price limit of 350 percent of the Kansas median household income for the previous year is limiting in areas of the state with high construction costs and, second, limiting the program to just one housing loan deposit per developer at any one time can make it difficult for communities to recruit out-of-town builders who find greater efficiency in building multiple residential homes at the same time. He said this bill addresses both of these issues. (Attachment 2)

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, testified in support of SB 382. Mr. Bell stated that this bill would make several improvements to the Kansas Housing Loan Deposit program that were established by the Kansas Legislature during the 2008 Legislative Session. He stated that in the absence of these improvements, many home builders and real estate developers in Kansas will be unable to take advantage of this innovative program which is vitally important to the recovery and reinvigoration of the residential construction and housing industries in Kansas. (Attachment 3)

Phil Perry, Staff Vice President Government Affairs, Home Builders Association of Greater Kansas City; Martha Neu Smith, Executive Director, Kansas Manufactured Housing; Mike Michaelis, Executive Director, Ellis County Coalition for Economic Development; and Doug Wareham, Kansas Bankers Association, presented written testimony only. (Attachments 4, 5, 6 and 7)

Following Q & A, the chair closed the hearing on SB 382.

Hearing on

SB 239 - Enacting the rural risk bank loan guarantee loan program.

The Chair asked Melissa Calderwood for an overview of SB 239. Ms. Calderwood stated that this bill would establish the Kansas Rural Risk Bank Loan Guarantee Program that would be implemented by the State Treasurer. She said this program would authorize the State Treasurer to provide loan guarantees against the risk of default for rural development projects with rural developers and financial institutions. She noted that rural development projects are by rural developers for the renovation or construction of commercial, manufacturing, or value-added agricultural facilities or equipment. She continued that this bill also would establish the Rural Risk Bank Loan Guarantee Review Committee within the office of the State Treasurer. This review committee would review all proposals for loan financing guarantees and approve those proposals that the committee determined to represent reasonable risks. The bill would also create the Rural Risk Bank Loan Guarantee Fund that would receive all fees and charges for the purposes of implementing the program. The State Treasurer would submit an annual report on the program to the Legislature at the beginning of each legislative session.

State Treasurer, Dennis McKinney, said developers in rural areas often face additional borrowing cost. He said lenders often assume that commercial properties in rural areas will be more difficult to resell should the borrower default. He said by providing a 25% loan guarantee, SB 239 provides a prudent way to

CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on January 27, 2010, in Room 152-S of the Capitol.

encourage lenders to pursue such projects without charging borrowers a premium interest rate. He noted that measures like this that increase access to capital at reasonable rates are essential to growing our economy out of the current recession. (Attachment 8)

Tom Thull, State Banking Commissioner, said the Rural Risk Loan Guaranty will bridge the financing gap that occurs when the completed project appraises for less than the actual cost of the purchase and development of the project. He said currently, the options available to developers and financial institutions to address this situation are limited. He continued that the financial institution may choose to exceed its policy loan to value ratio or not make the loan without additional collateral or investment by the developer. He said the developer may choose to encumber additional assets, utilize liquid assets that may have been designated as working capital, or abandon the project. (Attachment 9)

Luke Bell, Kansas Association of Realtors, said without the assistance of important government programs like those contained in SB 239, many businesses in Kansas will be unable to gain access to commercial development financing in these difficult economic times, which will continue to slow the recovery and reinvigoration of the Kansas economy. In conclusion, he said since more than one out of every five Kansas businesses are in the construction and real estate industries, the Kansas economy cannot recover until the construction and housing industries recover. (Attachment 10)

Shawn Mitchell, Community Bankers Association, Haley DaVee, Kansas Credit Union Association and Doug Wareham, Kansas Bankers Association submitted written testimony only. (Attachments 11, 12, and 13.)

Following Q & A, the Chair closed the hearing on SB 239.

The next meeting is scheduled for January 28, 2010.

The meeting was adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 1-27-10

NAME	REPRESENTING
Lori M. Church	KAPCIC
Shawn Mitchell	community BANKERS
Haley Dalve	KCUA
David R. Corbin	K DOR
John Danley	KS Lusk Assn
Dean Tollefson	Brown Co KSNB
Doug Wareham	KBA
Phil Deera	HBA of OKC
Ashley Jones-Wisner	LISC
Tom Thull	OSBC
Matt Goddard	HCBA
BRAD HARPERSON	KFB
Laura & Jube Linstra	K&TC
Kathy Olsen	KS Bankers Assn.
Dopo Pelyko	KS Farmers Union
Michelle Speck	KMFID



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STATE OF KANSAS
Dennis McKinney
TREASURER

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Senate Bill 382
Kansas Housing Loan Deposit Program
Senate Committee on Financial Institutions & Insurance
January 27, 2010
By Kansas State Treasurer Dennis McKinney

Madam Chair and members of the committee:

Senate Bill 382 would amend K.S.A. 75-4277 and 75-4279 relating to the Kansas Housing Loan Deposit Program which is administered by the Office of the State Treasurer.

Initially adopted by the Legislature in 2008, the Kansas Housing Loan Deposit Program provides qualified builders/developers in Kansas access to \$60 million in loans. As originally approved by the Legislature, \$30 million of the loan fund is available state-wide and \$30 million is designated for areas impacted by tornado and flooding damage in 2007 including the cities of Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha, or Osawatomie. The full loan fund would then be made available for affordable housing construction statewide beginning in FY 2012.

This program gives Kansas banks the ability to provide incentives for housing construction development loans. These loans can be authorized for a length of up to 5 years for a single family home valued at not more than 350% of the Kansas Median family income as reported by the most recent U.S. Census Report (\$165,694 as of July 1, 2009).

Upon taking office I discovered that the loan fund was underutilized and in visiting with lenders and developers learned that some of the elements of the loan program created obstacles that made the loans unattractive for both lending institutions and housing developers. Currently less than \$500,000 has been loaned out. Our office began meeting with representatives of the banking industry, housing developers and realtors to determine ways to revise the program that are consistent with its original purpose of spurring affordable housing development.

From those discussions, we have come up with the provisions proposed in SB 382 which would amend the existing statutes in the following manner:

- Open up the loan program for construction of multi-family dwellings;
- Remove the requirement limiting the value of eligible housing to 350% of the Kansas Median family income instead limiting the value of eligible housing to the average purchase

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Attachment 1

price for the state of Kansas as established by the treasurer through regulations based on the federal rules for homes that are eligible for mortgage revenue bonds. This would raise the amount to \$287,434 for a single-family dwelling and up to \$552,757 for a four dwelling unit.

- Eliminate the existing limit of one outstanding loan to a participating borrower instead capping participating borrowers at \$2 million in outstanding loans.
- Move up the date expansion of the full loan program statewide from July 1, 2011 to January 1, 2011.

As you are aware, economic development leaders frequently tell us that the lack of quality housing stock is an impediment to development across the state.

Passage of SB 382 will help to create new jobs in our state. First, by revising impediments in the current program, the state will be in a better position to partner with lenders and developers to boost the construction of affordable housing providing a new source of good paying construction jobs. Second, by improving our affordable housing stock we will place our state in a better position to attract new business and jobs.

Another strength of this program over the next fiscal year is that it will cost the State General Fund little if anything. The linked deposit programs only cost us the amount by which they reduce our interest income which in most years is 2% below the market rates. However, at this time interest rates are so low that there is little if any interest earnings cost to the state. In fact, the 0.5% minimum rate for this program is near, and in some cases above, current rates being earned by the state. Therefore, it makes sense to invest our idle funds in housing construction incentives through Kansas banks rather than investing in instruments which would likely take the money out of Kansas.

Thank you for the opportunity to appear before you today. My office stands ready to work with you to improve the Housing Loan Deposit Program.

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: January 27, 2010

Re: Senate Bill 382

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Financial Institutions and Insurance Committee to express our support for Senate Bill 382. The bill makes several important changes to the Housing Loan Deposit Program.

Under the Program, a participating bank or savings and loan accepts a program loan application from a developer and then, if approved under the lender's underwriting standards, applies to the State Treasurer for housing loan deposits. Upon approval, the Treasurer directs the Pooled Money Investment Board to deposit State monies in the amount of the loan in the financial institution at an interest rate which is two percentage points below the PMIB market rate. The interest rate on the loan to the developer cannot be more than four percentage points greater than the rate paid on the housing loan deposits. The State assumes no risk and is guaranteed a minimum return of .5 percent.

HCBA members have identified two primary problems with the current law. First, the price limit of 350 percent of the Kansas median household income for the previous year is limiting in areas of the state with high construction costs. Also, limiting the program to just one housing loan deposit loan per developer at any one time can make it difficult for communities to recruit out-of-town builders who find greater efficiency in building multiple residential homes at the same time.

Senate Bill 382 addresses both of these issues. For the purchase price, the bill allows the Treasurer to establish a price limit using the IRS rules for determining price limits for homes in a mortgage revenue bond program. That would increase the potential sale or appraised value of a house from \$165,694 under current law to over \$237,000 using the mortgage revenue bond guidelines. Senate Bill 382 also eliminates the one loan per developer rule and instead limits developers to no more than \$2 million in outstanding loans. HCBA believes a monetary cap, rather than an artificial limit on the number of program loans, is the best way to ensure equitable access to the program. These changes bring the program more in line with what we see in other states.

The bill also ends the set aside for 2007's natural disaster areas six months early. Considering that the housing loan deposit program has thus far been underutilized, making 100 percent of the funds available statewide six months early should not have a negative effect on the 2007 disaster areas.

The Heartland Community Bankers Association respectfully requests the Senate Financial Institutions and Insurance Committee recommend Senate Bill 382 favorable for passage.



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To: Senate Financial Institutions and Insurance Committee

Date: January 27, 2010

Subject: **SB 382** -- Improvements to the Kansas Housing Loan Deposit Program

Chairperson Teichman and members of the Senate Financial Institutions and Insurance Committee, thank you for the opportunity to appear in front of you today on behalf of the Kansas Association of REALTORS® in support of **SB 382**. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR has faithfully represented the interests of the nearly 9,000 real estate professionals and over 700,000 homeowners in Kansas for the last 90 years. In conjunction with other organizations involved in the housing industry, the association seeks to increase housing opportunities in this state by increasing the availability of affordable and adequate housing for Kansas families.

Over the past several years, the credit crisis and the struggling economy have made it increasingly difficult for home builders and real estate developers in Kansas to obtain the necessary financing to provide new affordable housing opportunities for Kansas families. The availability of affordable development financing is extremely important to the overall stability of our state's economy and the housing market.

SB 382 would make several improvements to the Kansas Housing Loan Deposit program that was established by the Kansas Legislature during the 2008 Legislative Session. In the absence of these important changes, many home builders and real estate developers in Kansas will be unable to take advantage of this innovative program, which is vitally important to the recovery and reinvigoration of the residential construction and housing industries in Kansas.

All of the requested changes to the Kansas Housing Loan Deposit Program in **SB 382** will help expand the availability of this program to more home builders and developers in Kansas. In turn, we believe that this will help create new affordable housing options for Kansas families and workers.

As the state moves forward with efforts to stimulate the Kansas economy and housing market, we hope that you will give special consideration to the unique role played by the housing and residential construction industries in the Kansas economy. Since more than one out of every five Kansas businesses are in the construction and housing industries, the Kansas economy cannot recover (much less thrive again) until the construction and housing industries recover.

For all the foregoing reasons, we would urge the Senate Financial Institutions and Insurance Committee to strongly support the provisions of **SB 382**. Once again, thank you for the opportunity to provide comments on **SB 382** and I would be happy to respond to any of your individual questions at the appropriate time.

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Attachment 3



**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



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Written Testimony on SB 382
Phil Perry, Staff VP Government Affairs
Home Builders Association of Greater Kansas City
January 27, 2010

Madame Chair and members of the committee, thank you for the opportunity to provide written testimony concerning SB 382. The Home Builders Association of Greater Kansas City is pleased to support the proposed changes to the Kansas Housing Loan Deposit Program.

Last August, I was contacted by the Kansas State Treasurer's office and asked to attend a meeting concerning this program. At that meeting I was stunned to learn that this program had only loaned \$490,000.00 out of the \$60 million authorized in SB 387 during the 2008 legislative session. The question arose as to why the program had not been more successful considering the building climate since that time. The problem with the existing program concerned the limitations on loan size and the amount of loans available to developers. SB 382 addresses these problems in a very reasonable manner.

We feel that by increasing the maximum value of the house and tying it to the same index as the mortgage revenue bonds and allowing developers to have more than one loan, but limiting the overall total to \$2 million will make the program much more attractive to builders and developers throughout the state. These changes will enable the program to reach its stated goals: the creation of new and affordable housing for citizens of Kansas. As a result of the proposed changes, our members are already expressing an interest in this program.

During these rough times in the banking industry, it is our viewpoint that this program could be the needed kick start to the housing industry, and industry that contributes nearly 15% of the State GDP.

We actively encourage you to support the changes to the Housing Loan Deposit Program contained in SB 382 and would be glad to provide any additional information you might need.

F I & I Committee

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Attachment 4

Do Business With A Member



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TO: Senator Ruth Teichman, Chairwoman
And Members of the
Senate Financial Institutions and Insurance Committee

FROM: Martha Neu Smith
Executive Director

DATE: January 27, 2010

RE: SB 382 – Housing Loan Deposit Program

Chairwoman Teichman and members of the Committee, my name is Martha Neu Smith and I am the Executive Director for Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to provide written comments in support of SB 382 – Kansas State Treasurer's Housing Loan Deposit Program amendments.

KMHA is a statewide trade association, which represents all facets of the manufactured and modular housing industry including manufacturers, retail centers, community owners and operators, finance and insurance companies, service and supplier companies and transport companies.

This fall, KMHA participated in State Treasurer Dennis McKinney's review of the existing Housing Loan Deposit program to see if there were any changes that could be made to make the program more relevant for the banking industry and the builder/developer of residential housing. The changes discussed are provided for in SB 382 which includes: expanding the program to multi-family housing; provide a better index in determining qualifying loans - the IRS requirement for purchases under the mortgage revenue bond program; increase the maximum limit per builder/developer to \$2 million and change the deadline for the target area.

KMHA supports these changes and would respectfully ask the Financial Institutions and Insurance Committee's support of SB 382 – Housing Loan Deposit Program.

Thank you.

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Attachment 5*

Testimony in Support of SB382

Senate Committee on Financial Institutions and Insurance – Ruth Teichman, Chair

January 27, 2010

Madam Chair and Members of the Financial Institutions and Insurance Committee:

My name is Mike Michaelis. I am the Executive Director of the Ellis County Coalition for Economic Development, based in Hays, and I support SB 382 and the changes it makes to Housing Loan Deposit Program.

During the several months, State Treasurer Dennis McKinney and I have discussed the Housing Loan Deposit Program. We reviewed the attributes and the shortcomings of the program.

I believe the intent of the initial program was to incent a developer to build an affordable home. In its current form, the impact of this legislation is limited because a developer is limited to one home per application and then must reapply for the next project. Most developers, even in a rural community, don't build just one home at a time, but rather several at a time or in a series.

Compounding the limits of the current program is the fact that building affordable homes, those defined by the Housing Loan Deposit Program that are valued at less than \$165,694 as of July 1, 2009, are not profitable for a developer. Much like the car industry, the "extras" that home owners demand today are the most profitable components of the home. An affordable home may not have oak trim or even trim at all, but that is where the margins are for developers and why developers build higher priced homes and affordable homes become more and more obsolete.

In today's financial environment, finding lenders that will back these low margin projects that have any risk is not easy. By allowing a developer to borrow enough money at the right interest rate to build multiple homes, developers will have the incentive to build homes that will help more families get started with the American dream of owning a home. The developers will build "affordable homes."

I also believe that by expanding the definition of what is eligible from single family home to include multi-family dwellings, this bill will also make quality living possible for more Kansans.

Developers in and around Hays America have used or will use TIF (tax increment financing) District, the Rural Housing Incentive District, and the tax credit programs to build affordable homes and apartments for working families. By expanding Housing Loan Deposit Program, you add another tool for developers to help Kansans.

This program will help in small, medium, or large communities, but I believe will have a special impact on rural Kansas. Please vote in favor of SB 382.

Thank you in advance for your time and consideration.

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Attachment 6*



January 27, 2010

To: Senate Committee on Financial Institutions and Insurance

From: Doug Wareham, Kansas Bankers Association

Re: SB 382: Housing Loan Deposit Program

Madam Chair and Members of the Committee:

Thank you for the opportunity to present written testimony today in support of **SB 382**. This bill addresses shortcomings associated with the existing Kansas Housing Loan Deposit Program; a program established by the 2008 Legislature to incentivize home construction in areas of Kansas that were severely impacted by tornados and flooding in 2007.

KBA appreciates the efforts of Kansas State Treasurer Dennis McKinney to increase utilization of this program. Last Fall, Treasurer McKinney hosted a stakeholders meeting to garner input from lenders, realtors and homebuilders concerning the problems with this program. **S.B. 382** is a product of that stakeholders meeting, and KBA is confident the changes proposed in this bill will increase utilization of the loan deposit program and will serve as an incentive for new home construction.

The program modifications proposed in **SB 382** will:

1. Increase utilization of the program by tying the maximum value of the to-be-constructed home to the same index used for mortgage revenue bonds.
2. Allow multi-family housing to become eligible for the program.
3. Allow lending institutions to make more than one loan to individual developers (the proposal does establish a \$2,000,000 limit for any one developer borrower).
4. Shortens the timeframe whereby 50% of the amount of funds available must be made available to specific disaster regions in southeast and south-central Kansas.

Kansas bankers have helped benefit agricultural customers for years through utilization of the Kansas Ag Link Loan Deposit Program, which is also administered by the Kansas State Treasurer's Office. KBA is confident that adoption of the changes proposed in **SB 382** will yield similar results for Kansas communities in need of additional housing units. Thank you for the opportunity to provide comments in support of **SB 382**.

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Attachment 7*



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STATE OF KANSAS
Dennis McKinney
TREASURER

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Senate Bill 239 Testimony
Senate Financial Institutions Committee
January 27, 2010
By Kansas State Treasurer Dennis McKinney

Madam Chair and members of the committee:

Thank you for the opportunity to appear here today in support of Senate Bill 239 which would create a development loan guarantee program to be administered by the Office of the State Treasurer.

Developers in rural areas often face additional borrowing cost. Lenders often assume that commercial properties in rural areas will be more difficult to resell should the borrower default. By providing a 25% loan guarantee, SB 239 provides a prudent way to encourage lenders to pursue such projects without charging borrowers a premium interest rate. Measures like this that increase access to capital at reasonable rates are essential to growing our economy out of the current recession.

I would propose a few changes to the original language in SB 239 that are outlined in the attached amendment.

Developers in blighted urban areas often face similar challenges in accessing capital which is why I support changing the language to include urban areas where at least 20% of the population for the development area falls below the poverty line.

I am also concerned with the provision in section 3 requiring all claims against the guarantee to be approved by the joint committee on special claims against the state. Eventually, we will need to set aside funds to fund the guarantee without looking to the state general fund claims process. A good benchmark is 10% of the outstanding loan balances. An unfunded guarantee may discourage banks from participating in the program or increase the interest rates that they charge borrowers, which is why we propose a small appropriation to seed the guarantee fund over the next three fiscal years. From that point forward, we will be able to administer this program within existing resources by charging fees to recover the program's costs.

The loan guarantee fund provided by SB239 helps lenders and business investors bridge the gap in areas where appraised value is significantly below construction cost.

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A second key advantage of SB239 is that the cost to the state is extremely low. Rather, by using a very small amount of cash to seed the guarantee fund we can leverage significant private sector investment in construction. This means of jump starting economic activity helps us reach our commonly shared objective which is job creation in the Kansas economy.

Thank you again for the opportunity to appear before you. The State Treasurer's Office looks forward to working with you and other interested parties to make this important initiative a success spurring development and creating jobs across Kansas.

SENATE BILL No. 239

By Committee on Financial Institutions and Insurance

AN ACT enacting the rural risk bank loan guarantee program.

Be it enacted by the Legislature of the State of Kansas:

1 Section 1. The provisions of sections 1 through 7, and amendments thereto, shall be known and
2 may be cited as the Kansas rural risk bank loan guarantee program.

3 Sec. 2. As used in sections 1 through 7, and amendments thereto:

4 (a) "Financial institution" means any bank, trust company, savings bank, credit union or savings
5 and loan association or any other financial institution regulated by the state of Kansas, any agency of the
6 United States or other state with an office in Kansas which is approved by the state treasurer;

7 (b) "~~rural~~ eligible area" means any rural county that is not part of a standard metropolitan
8 statistical area as defined by the United States department of commerce or its successor agency or any
9 census tract in an urban area in which 20% or more of the population of all ages for the census tract has
10 an income below poverty level as reported in the most recently completed decennial census published by
11 the United States bureau of the census;

12 (c) "loan transaction" means a transaction with a financial institution to provide financing for rural
13 development projects for the renovation or construction of commercial, manufacturing or value-added
14 agricultural facilities and equipment in rural areas;

15 (d) "rural developer" means any person, firm or corporation renovating or constructing
16 commercial, manufacturing or value-added agricultural facilities or equipment;

17 (e) "Rural development project" means projects by rural developers for the renovation or
18 construction of commercial, manufacturing or value added agricultural facilities or equipment.

19 Sec. 3. (a) The state treasurer is hereby authorized to enter into agreements with rural
20 developers and financial institutions to provide loan guarantees against risk of default for rural
21 development projects in accordance with the provisions of this act. ~~Except as provided in section 4,~~
22 ~~and amendments thereto, for payment for a loan guarantee for which the rural risk bank loan guarantee~~
23 ~~fund is liable, no claim against the state under this act shall be paid by the state, the state treasurer or~~

1 any other state agency other than pursuant to an appropriation act of the legislature after such claim has
2 been filed with and considered by the joint committee on special claims against the state.

3 (b) Eligible financial institutions shall apply all usual lending standards to determine the credit
4 worthiness of eligible rural developers. Repayment ability from the cash flow of the business shall be a
5 primary consideration in making the loan, in addition to the business management capability collateral
6 and the borrower's equity contribution. The financial institution originating the loan shall be responsible for
7 monitoring the loan and in case of any default, working out the loan with the borrower
8 to obtain the collateral. ~~The bank shall be in first position and the state in second position.~~

9 (c) The state treasurer shall administer the provisions of this act and shall may adopt rules and
10 regulations which the state treasurer deems necessary for the implementation or administration of this act
11 including the development of an application process. The loan guarantee agreement with the state
12 treasurer shall include reporting requirements and financial standards that are appropriate for the type of
13 loan for the borrower. The state treasurer may enter into contracts the state treasurer deems necessary
14 for the implementation or administration of this act. The state treasurer may impose fees and charges as
15 may be necessary to recover costs incurred for the administration of this act and to create a reserve for
16 paying claims against the state's guarantee.

17 Sec. 4. (a) Each agreement entered into by the state treasurer to guarantee against default on a
18 loan transaction shall be backed by the rural risk bank loan guarantee fund and shall receive prior
19 approval by the rural risk bank loan guarantee review committee established under
20 section 5, and amendments thereto.

21 (b) Each loan transaction eligible for a guarantee under this act shall be for the renovation or
22 construction of a rural development project. Eligible costs may include land and building purchases,
23 renovation and new construction costs, equipment and installation costs, pre-development costs that may
24 be capitalized, financing, capitalized interest during construction and consultant fees which do not include
25 staff costs.

26 (c) The aggregate principal amount of outstanding loan guarantees for any single borrowing
27 organization shall not exceed \$3,000,000. The aggregate outstanding amount of all loan guarantees for
28 borrowing organizations, under this act shall not exceed \$15,000,000 at any time.

1 (d) ~~Conventional loans may be guaranteed up to 50% under this act, (subject to the other~~
2 ~~provisions of this act and~~ The amount of the guarantee shall be no greater than 25% of the amount of the
3 loan and shall be no greater than the amount by which facility's appraised value is less than the project's
4 cost due to its location in a rural or economically depressed area. The amount of the guarantee shall also
5 be subject to any other conditions imposed by the rules and regulations adopted by the state treasurer.

6 (e) Claims against the guarantee shall be approved by the rural risk bank loan guarantee review
7 committee established under section 5, and amendments thereto. The bank and the state shall share
8 equally in any losses after recovering the collateral up to the amount of the state's guarantee.

9 Sec. 5. (a) There is hereby established the rural risk bank loan guarantee review committee
10 within the office of the state treasurer. The committee shall consist of the state treasurer or the state
11 treasurer's designee and four other five-members appointed by the state treasurer.

12 (b) ~~The members of the rural risk bank loan guarantee review committee shall be appointed by~~
13 ~~the state treasurer.~~

14 (e) (b) The rural risk bank loan guarantee review committee shall review all proposals for loan
15 financing guarantees under this act and shall approve those proposals that the committee deems to
16 represent reasonable risks and to have a sufficient likelihood of repayment. The committee shall advise
17 the state treasurer on matters regarding the administration of this act when requested by the state
18 treasurer and may provide such advice when deemed appropriate by the committee.

19 (e) (c) The state treasurer or the state treasurer's designee shall serve as a ~~non~~voting
20 chairperson of the rural risk bank loan guarantee review committee, and the committee shall annually
21 elect a vice-chairperson from among its members. The committee shall meet upon call of the chair-
22 person or upon call of any two of its members. Three ~~voting~~ members shall constitute a quorum for the
23 transaction of business.

24 (e) (d) Members of the rural risk bank loan guarantee review committee attending meetings of
25 the committee, or attending a subcommittee meeting thereof authorized by the committee, shall be paid
26 compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and
27 amendments thereto.

1 Sec. 6. (a) Subject to appropriations there is hereby established the rural risk bank loan
2 guarantee fund in the state treasury for the purposes of facilitating the financing for the renovation or
3 construction of rural development projects. The rural risk bank loan guarantee fund shall be administered
4 by the state treasurer. All moneys in the rural risk bank loan guarantee fund shall be used to provide
5 guarantees against loan risks in accordance with this act and to pay for the administrative costs
6 associated with the act as may be certified by the state treasurer. All expenditures from the rural risk bank
7 loan guarantee fund shall be made in accordance with appropriations acts upon warrants of the director
8 of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state
9 treasurer's designee. (b) All fees and charges imposed by the state treasurer and other moneys received
10 by the state treasurer for the purposes of this act shall be deposited in the state treasury to the credit of
11 the rural risk bank loan guarantee fund.

12 (c) On July 1, 2010, the director of accounts and reports shall transfer \$25,000 from the state
13 general fund to the rural risk bank loan guarantee fund. On July 1, 2011 the director of accounts and
14 reposts shall transfer \$50,000 from the state general fund to the rural risk bank loan guarantee fund. On
15 July 1, 2012 the director of accounts and reports shall transfer \$100,000 from the state general fund to
16 the rural risk bank loan guarantee fund. Upon certification by the state treasurer to the director of
17 accounts and reports that the unencumbered balance in the rural risk bank loan guarantee fund is
18 insufficient to pay an amount for claims against a loan guarantee for which the fund is liable under this
19 act, the director of accounts and reports shall transfer an amount equal to the insufficiency from the state
20 general fund to the rural risk bank loan guarantee fund. The state treasurer shall transmit a copy of each
21 such certification to the director of the budget and to the director of legislative research at the same time
22 that the state treasurer submits a certification to the director of accounts and reports under this
23 subsection.

24 (d) On or before the 10th of each month, the director of accounts and reports shall transfer from
25 the state general fund to the rural risk bank loan guarantee fund interest earnings based on:

26 (1) The average daily balance of moneys in the rural risk bank loan guarantee fund for the
27 preceding month; and

28 (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

1 Sec. 7. The state treasurer shall prepare an annual report of the loan guarantee activity under this
2 act, including new loans, loan repayment status and other relevant information regarding activities under
3 this act and shall submit the report of its activities to the legislature at the beginning of each regular
4 session by submitting the annual report to the committee on ways and means of the senate, or to the
5 appropriate subcommittee thereof, or to its successor committee, and to the committee on appropriations
6 of the house of representatives, or to the appropriate budget committee, or its successor committee.

7 Sec. 8. This act shall take effect and be in force from and after its
8 publication in the statute book.



MARK PARKINSON, Governor

OFFICE OF THE STATE BANK COMMISSIONER

J. THOMAS THULL, Bank Commissioner

Date: January 27, 2010
To: Honorable Ruth Teichman, Chairperson,
Senate Financial Institutions and Insurance Committee
From: J. Thomas Thull, Bank Commissioner
Re: Senate Bill No. 239

I appear before you today in support of Senate Bill 239.

At a time when real estate appraised values are unpredictable due to any number of factors, including economic, functional, or rural obsolescence issues, Senate Bill 239 has the potential to benefit entrepreneurs willing to invest in rural development projects, as well as Kansas Financial Institutions, and the communities where the projects are located. SB 239 could provide a means for accessing credit in eligible areas that will facilitate investment necessary to promote the economic recovery we all anxiously await.

The Rural Risk Loan Guaranty will bridge the financing gap that occurs when the completed project appraises for less than the Actual Cost of the purchase and development of the project. Currently, the options available to developers and financial institutions to address this situation are limited. The financial institution may choose to exceed its policy loan to value ratio or not make the loan without additional collateral or investment by the developer. The developer may choose to encumber additional assets, utilize liquid assets that may have been designated as working capital, or abandon the project.

It appears SB 239 would promote investment in eligible areas by making credit more available. Thanks for your consideration of SB 239. I urge your support.

*FI&I Committee
1-27-10
Attachment 9*



Luke Bell
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To: Senate Financial Institutions and Insurance Committee

Date: January 27, 2010

Subject: **SB 239** -- Establishing the Kansas Rural Risk Bank Loan Guarantee Program and Creating New Economic Development Opportunities for Kansas Businesses

Chairperson Teichman and members of the Senate Financial Institutions and Insurance Committee, thank you for the opportunity to appear in front of you today on behalf of the Kansas Association of REALTORS® in support of **SB 239**. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR has faithfully represented the interests of the nearly 9,000 real estate professionals and over 700,000 homeowners in Kansas for the last 90 years. Over the past several years, the credit crisis and the struggling economy have made it increasingly difficult for commercial real estate developers in Kansas to obtain the necessary financing to construct new commercial and industrial facilities for Kansas businesses.

The availability of affordable development financing is extremely important to the overall stability of our state's economy and the commercial real estate market. Given the current problems in accessing affordable commercial development financing, the Kansas economy is suffering devastating stagnation and unemployment in the construction and real estate industries.

SB 239 would establish the Kansas Rural Risk Bank Loan Guarantee Program that would provide the state with a new tool that would help alleviate the problems associated with the liquidity crisis that is currently facing commercial real estate in many areas of the state. In a time of great turmoil and hardship in the construction and real estate industries, the new tools created by **SB 239** would be of an enormous benefit to the state's efforts to grow and stimulate the Kansas economy.

Without the assistance of important government programs like those contained in **SB 239**, many businesses in Kansas will be unable to gain access to commercial development financing in these difficult economic times, which will continue to slow the recovery and reinvigoration of the Kansas economy. Since more than one out of every five Kansas businesses are in the construction and real estate industries, the Kansas economy cannot recover (much less thrive again) until the construction and housing industries recover.

For all the foregoing reasons, we would urge the Senate Financial Institutions and Insurance Committee to strongly support the provisions of **SB 239**. Once again, thank you for the opportunity to provide comments on **SB 239** and I would be happy to respond to any of your individual questions at the appropriate time.

*FI & I Committee
1-27-10
Attachment 10*

To: Senate Financial Institutions and Insurance Committee

From: Shawn Mitchell, President and CEO
Community Bankers Association of Kansas

Date: January 27, 2010

RE: Testimony on SB 239

Chairwoman Teichman and Members of the Committee,

I am Shawn Mitchell, President and CEO of the Community Bankers Association of Kansas. The CBA represents community banks from every corner of Kansas. I appear today in support of Senate Bill 239.

Senate Bill 239 establishes the Kansas rural risk bank loan guarantee program. The program will take advantage of the strong community banks in Kansas to assist to provide financing for rural development projects including the renovation or construction of commercial, manufacturing or value-added agricultural facilities and equipment in these areas.

A variety of issues often hinder economic development in rural Kansas. Lenders have to make difficult decisions about the value of supporting economic development projects when the potential of default makes resale a risk. The rural risk bank loan guarantee program makes it easier for lenders to make the necessary investments in commercial and manufacturing ventures. The program can be used for multi-family housing projects in areas of the state where affordable, quality housing is needed. The provisions also make it possible for banks to make more than one loan to developers by eliminating the one loan limit and instituting a \$3 million limit for any single borrowing organization.

Senate Bill 239 will provide a cost effective means of using the existing community banking business in rural Kansas to aid growth, stability and economic development for all Kansans. We urge your support for Senate Bill 239.

I would be happy to stand for questions at the appropriate time.

*FI&I Committee
1-27-10
Attachment II*



KANSAS CREDIT UNION ASSOCIATION

To: Senate Financial Institutions and Insurance Committee

From: Haley DaVee, Assistant Vice President of Legislative & Public Affairs

Date: Wednesday, January 27, 2010

Re: Written Support of Senate Bill 239

The Kansas Credit Union Association, on behalf of the 106 Kansas credit unions, appreciates this opportunity to provide written comment in support of Senate Bill 239.

Commercial lending is a complicated business in the best of times. The business model is further complicated when lenders are evaluating loans to rural or economically depressed areas of the state where they may not be able to sell the collateral in the event that the loan defaults. These factors, combined with the current economic recession, could discourage lenders from making these vital economic development loans.

SB 239 would provide support and incentive to credit unions and other lenders to provide economic development loans to rural and economically depressed areas of the state by providing a loan guarantee fund that would help shoulder the burden of a defaulted loan.

Though credit unions remain a small segment of the business lending market place in Kansas (.7% based on the September 30, 2009 call report data from FDIC and NCUA) and have a federal cap of 12.25% of assets on member business loans, they remain a valuable option to members looking to open small businesses in rural and economically depressed areas of the state. Kansas credit unions are healthy, well-capitalized, and are continuing to lend both personally and commercially to their member/owners.

We appreciate the deliberative approach utilized by the Secretary of Revenue and the State Treasurer as they worked during the interim in 2009 to make SB 239 a better bill. We support the changes that they have made in the legislation.

In conclusion, the Kansas Credit Union Association respectfully requests that the Senate Financial Institutions and Insurance Committee recommend SB 239 as favorable for passage.

*FI & I Committee
1-27-10
Attachment 12*



January 27, 2010

To: Senate Committee on Financial Institutions and Insurance

From: Doug Wareham, Kansas Bankers Association

Re: SB 239: Rural Risk Bank Loan Guarantee Program

Madam Chair and Members of the Committee:

Thank you for the opportunity to present written testimony today in support of **SB 239**, which would provide for a loan guarantee program for development projects in rural counties, as well as economically depressed urban areas. KBA testified in support of this bill last year, and we are in support of the suggested amendments being offered by Kansas State Treasurer Dennis McKinney.

This bill recognizes that new construction in many rural areas, as well as depressed urban areas can be difficult. The costs of construction can often exceed the market value of the completed structure. This makes pricing of the loan very treacherous for a lender who is trying to value the loan based on an appraisal of the finished product. In addition, there are instances where supply exceeds demand which also drives the market value of the property down.

We view this bill as a useful tool in filling the gap between the market value of the completed structure versus the construction costs of building it. We support SB 239, which would allow a bank in a qualified area to apply for a state loan guarantee of up to 25% of a commercial construction loan.

The bank would be responsible for monitoring the loan and working out the loan should the borrower default. The bank would not be allowed to deviate from its standard loan policy with regard to qualifying borrowers, and would not be allowed to price the loan based on the gap between the market value of the loan and the costs of construction.

The program would be administered by the State Treasurer's office. We support that provision as we have had several successful working relationships with the State Treasurer's office with regard to other loan programs.

Our mission at the KBA is to support and assist Kansas banks and Kansas bankers. There are many Kansas bankers who are seeking ways to promote their local communities and to attract new business there. We support **SB 239** as one means of accomplishing that mission. Thank you.

*FI&I Committee
1-27-10
Attachment 13*