



KANSAS BANKERS ASSOCIATION

Date: February 11, 2025

**To: House Committee on Judiciary
Representative Susan Humphries, Chair**

**From: Kelly VanZwoll, Vice President Government Relations,
Kansas Bankers Association**

Re: Neutral Testimony on HB 2371

Madam Chair and committee members, I am Kelly VanZwoll on behalf of the Kansas Bankers Association (KBA). We look forward to being a resource for you and the committee as you consider financial service issues in the coming weeks and months. Thank you for the opportunity to submit neutral testimony on HB 2371, with specific concerns on the Series LLC provisions.

Kansas Bankers Association Background Information:

The KBA, founded in 1887, is a voluntary, non-profit trade association governed by its membership. The KBA is headquartered in Topeka, Kansas, and is led by our 24-member board of directors. The KBA staff, which President/CEO Doug Wareham leads, includes 42 professionals, including 15 attorneys licensed in 5 states, that provide services to Kansas bankers ranging from legislative advocacy to educational training to insurance services to legal and regulatory compliance support. Our mission statement is:

"The Kansas Bankers Association strengthens and supports the Kansas banking industry by advocating for sound financial policies, promoting innovation, and fostering economic growth across the state to ensure a vibrant financial future for all Kansans."

KBA's membership includes 98% of the headquartered banks in Kansas. Our membership also includes 20 out-of-state commercial banks operating in Kansas. Our member banks employ more than 21,000 Kansans that provide financial services in every county across the state. While our member banks range in assets from the smallest in our state to the largest in our state, each member bank that belongs to the KBA has one vote on policy positions adopted by either our general membership or our Board of Directors. One member, one vote.

Series LLCs and Banking Concerns

We are supportive of HB 2371, the Kansas Bar Association's bill to update the Limited Liability Company statutes and appreciate their continued work to keep our LLC statutes up to date. In general, we support the Delaware model of the LLC statutes. Specifically with Series LLCs, Delaware first created the Series LLC structure and is known for their specialty in corporate caselaw, so they traditionally take the lead on this issue. A major benefit of the Delaware model is

that it has already been litigated in Delaware courts which gives us case law to work off of and the ability to know exactly how the laws operate. This is particularly important to the banking industry for collateral issues and bankruptcy cases.

On the subject of Series LLCs, the Kansas Bankers Association has been involved in discussions since the topic first came up in 2012. We have worked with interested parties and the Legislature to attempt to address our concerns with the Series LLC structure in the past and we appreciate being at the table again this year.

The Kansas Chamber reached out to us on their proposed language to amend sections of the Series LLC provisions. Over the course of these discussions, we agreed that if the Legislature decides they are comfortable moving away from the Delaware model, then we wanted to work with the Chamber to address our concerns. We appreciate the Chamber for working with us on this. The language they have proposed addresses our concerns regarding the ambiguity of if a Series LLC is acting independently or jointly. Additionally, they were willing to narrow their shared tax status to the purpose of consolidated filing. This is an issue for banks because tax levies and garnishments come into the bank and are matched based off of the tax ID number. If the Series LLCs are sharing a tax ID number the bank will have no way of determining which Series LLC that levy or garnishment applies to.

The most important addition for the banking industry was the language to clarify fraudulently moving collateral between the Series LLCs. This language includes a reference to K.S.A. 33-102, transfers to delay or defraud creditors or purchasers. While it could be argued that Series LLCs were implicitly included under K.S.A. 33-102, we felt there was enough uncertainty that having it explicitly cited was needed to mitigate the risk.

We sincerely appreciate your time and attention to this matter. Thank you for the opportunity to provide information and if you have questions or require additional information later, please get in touch with me at kvanzwoll@ksbankers.com or (785) 232-3444.