

**KANSAS CREDIT ATTORNEYS ASSOCIATION**

**HOUSE BILL No. 2557**

**COMMITTEE on LOCAL GOVERNMENT**

**FEBRUARY 9, 2016**

*Chairman Huebert and Members of the House Committee on Local Government:*

I appreciate this opportunity to submit remarks to you on behalf of the Kansas Credit Attorneys Association in opposition to House Bill No. 2557.

My name is Larry Zimmerman and I am a private practice attorney from Topeka. The members of the KCAA and I assist a variety Home Owners Associations in enforcing legally binding, voluntarily entered agreements between Association members. Ensuring all members of an Association adhere to their voluntary agreements helps protect every homeowner's property value and ensures fair sharing of maintenance and enhancement costs.

Two specific provisions of HB 2557 negatively impact those aims and our clients' access to fair play and justice.

- New K.S.A. 58-4609(d)(3) – Page 2, Lines 19-20 prohibits an HOA from bringing a legal action against a unit owner without first submitting the dispute to mediation.
  - This provision erects new barriers to home owners seeking a quick and final answer to contractual disputes thereby increasing costs and delays – including potential added costs and delays to any consumer seeking protections under HB 2557.
  - The provision is unreasonably vague leaving unanswered what constitutes adequate mediation as well as what sorts of claims might require mediation (e.g. tort claims, criminal actions, etc.)
  - Consumer protection enforcement is trending against mandatory arbitration and mediation as such tools may often interfere with - rather than enhancing – consumer protections.
- New K.S.A. 58-4609(d)(4) – Page 2, Line 21 prohibits foreclosure on a unit owner's property outright. This new provision revokes Home Owners Associations' ability to enforce voluntarily agreements and significantly burdens those members who play by the rules and pay their dues.

I urge your "no" vote on HB 2557 thereby allowing full expression of Kansans' rights to contract and to be secure in their property.

Larry Zimmerman  
Legislative Committee  
Kansas Credit Attorneys Association