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MEMORANDUM

To: Chairperson Bergquist
Members of the House Committee on Local Government

From: The Office of Revisor of Statutes

Date: February 15, 2023

Subject: HB 2376 – Prohibiting unlawful restrictive covenants and providing for the release of such covenants.

House Bill No. 2376 (HB 2376) would amend the Kansas Act Against Discrimination (KAAD) by adding two new statutes to the act and amending an existing statute. Under current law it is unlawful to discriminate against a person on any real estate transaction, including rental property, on the basis of such person's race, religion, color, sex, disability, national origin or ancestry.

HB 2376 would make it unlawful to also record any restrictive covenant that discriminates on such basis. A restrictive covenant is a condition tied to the real property being sold that restricts the use or occupation of the property. For example, there may be an easement on a portion of the property that would restrict the owner from developing that portion of the property in any way that would block access to the property. Historically, there were covenants recorded with property deeds that restricted certain individuals from purchasing such property on the basis of one of the protected classes identified under KAAD. HB 2376 declares such unlawful covenants to be void and unenforceable.

The bill further provides that any owner may remove an unlawful restrictive covenant from their property records at the Register of Deeds by filing a certificate of release of prohibited covenants. The bill requires that such certificates include the owner and property information and sufficient information to identify the unlawful covenant.

HB 2376 also amends K.S.A. 44-1017a to authorize cities and counties to file a certificate of release to remove prohibited covenants when such covenants have been recorded with a homeowners' association (HOA) plat or declaration and the homeowners' association is

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no longer active. Currently, under K.S.A. 44-1017a, an active HOA was required to release such covenants within 60 days after the statute became effective in 2006. HB 2376 allows cities and counties to make such filing when the HOA is no longer active.

Finally, HB 2376 would prohibit any city or county law or regulation that imposes or enforces any anti-discrimination provisions that are more restrictive than KAAD. The bill both nullifies existing local laws and regulations and prohibits future adoption of any local laws or regulations that make certain acts or conduct discriminatory and unlawful if such acts or conduct are not specified in KAAD.

If enacted, HB 2376 would become effective on July 1, 2023.