SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR SENATE BILL NO. 222

As Recommended by House Committee on Economic Development

Brief*

SB 222, as amended, would allow the Kansas Development Finance Authority (KDFA) to operate a first-time homebuyers program through the authority to issue mortgage revenue or private activity bonds for low and moderate income families.

The bill would amend the current statutory definition of housing development to include housing for families of moderate as well as low income and also would add several definitions related to housing in the KDFA Act.

The bill would remove a statement in current law that the KDFA Act shall not be construed to give the KDFA the authority to make loans directly to individuals to finance housing developments. In its place, the bill would state that nothing in this act should be construed to authorize the authority to make loans directly to individuals to finance housing developments or home mortgage loans except that the authority is authorized to contract with lending institutions to originate, on behalf of or in the name of the authority, home mortgage loans secured by a junior lien made only to pay all or a portion of a mortgagor's required down payment or closing costs in connection with the acquisition of a home.

The bill would allow the KDFA to participate in and administer any state or federal tax credit programs. The bill also would expand the powers of the KDFA to include the following powers relative to home mortgage loans:

- Acquire home mortgage loans owned by lending institutions at

---

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org such prices, terms, and conditions determined by the KDFA or its agent.

- Make and execute contracts with lending institutions for the origination and servicing of home mortgage loans on behalf of the authority and to pay the reasonable value of services rendered relative to the contracts. However, a lending institution would have the option to retain servicing on conventional home mortgage loans originated by such lending institution.

- Prohibits an out-of-state master servicer who does not originate a minimum of 50 home mortgage loans for the authority each year. In addition, master servicer contracts are limited to three years and a new bidding process is required every three years.

- Establish standards and requirements applicable to the purchase of home mortgage loans or the origination of home mortgage loans as may be necessary. The standards and requirements must be consistent with standards and requirements with which non-governmental entities engaged in the purchase of home mortgage loans or the origination of home mortgage loans must comply.

- Authorize the sale or other disposition of any home mortgage loan, in whole or in part, at prices, terms, and times deemed necessary.

- Pledge any revenues and receipts to be received from or in connection with any home mortgage loans to the punctual payment of mortgage revenue bonds, interest, and redemption premiums.

- Pledge or grant security interests in any home mortgage loans, notes, revenues, or other property in favor of the holder or holders of mortgage revenue bonds.

The bill would specifically authorize the KDFA to issue bonds for the purpose of financing, acquiring, or originating home mortgage loans (*i.e.*, mortgage revenue bonds). However, the bill would state that any moneys derived from the issuance of mortgage revenue bonds and not used directly to finance, acquire, or originate home mortgage loans would be required to be used to support programs or activities related to low or moderate income housing. In addition, the authority is required to publish in the *Kansas Register* notification of issuing bonds.

The bill would require the Secretary of Commerce to create an objective scoring matrix for the allocation of housing tax credits. This matrix would be established through the Joint Committee on Administrative Rules and Regulations.

Under the bill, the KDFA would not have to follow the same notice requirements for mortgage revenue bonds as for other private activity bonds issuances.

The bill would allow the KDFA to issue bonds to refund mortgage revenue bonds previously issued by a local government.

The bill would provide a rural set aside which would ensure that for at least 90 days after the issuance of mortgage revenue bonds, the KDFA would be required to reserve a minimum of 20 percent of the amount of the bond proceeds available to finance home mortgage loans for use in financing home mortgage loans in those areas of the state which are not included in any metropolitan statistical area.

Under the bill, the provisions of the Kansas Governmental Operations Accountability Law (KGOAL) would apply to the KDFA. The bill would require that the KDFA be subject to a KGOAL audit during the 2004 Legislative Session or during a Legislative Session designated by the Committee on Legislative Post Audit.

Finally, the bill would expand the KDFA board of directors from five to seven members, two of which would be individuals with housing expertise as determined by the Governor.

Background

The Senate Committee held hearings on the bill, at which time proponents of the bill included representatives of the KDFA; Northwest Kansas Housing, Inc.; First Bank of Manhattan, Kansas; Homestead Affordable Housing; Fannie Mae; AmeriFirst Mortgage, Inc.; Coldwell Banker Witzke and Associates; Mennonite Housing, the Kansas Catholic Conference; Home Builders Association of Greater Kansas

City; United Community Services of Johnson County; the City of Leavenworth; Mortgage Bankers Association of Greater Kansas City; Robben Development Company; Kaw Valley Habitat for Humanity; and the Unified Government of Wyandotte County/Kansas City, Kansas. Opponents of the bill included representatives of Heartland Community Bankers; Kansas Manufactured Housing; Capitol Federal Savings and Loan; The Kansas Bankers Association; and the Kansas Building Industry Association. Neutral testimony was offered by a representative of Sedgwick County and information also was provided by the University of Kansas.

The Senate Committee made several amendments to the bill designed to ensure that the KDFA would not make direct mortgage loans to families in competition with commercial lenders. The Committee also amended the bill to add two members with housing expertise to the KDFA board of directors.

The Senate Committee of the Whole amended the bill to place the KDFA under the provisions of the Kansas Governmental Operations Accountability Law (KGOAL) and require a KGOAL audit of the KDFA during the 2004 Legislative Session. The Senate Committee of the Whole also added the requirement that the Secretary of Commerce and Housing create an objective scoring matrix for the allocation of housing tax credits to be established through the Joint Committee on Administrative Rules and Regulations.

The House Committee amended the bill to conform to legislation passed during the 2003 Session. In addition, the Committee added the requirements for a master servicer and length of the master servicer contracts; requirement that standards be consistent with standards for non-governmental entities engaged in mortgage activities; requirement for publishing in the *Kansas Register*; and clarifying language that the authority cannot make direct loans to individuals to finance housing.

The Division of the Budget reports that SB 222, as introduced, would not result in a fiscal impact to the state. The fiscal note states that fees generated by the transaction would pay for KDFA expenses associated with the bill and that current KDFA staff would be able to manage the contemplated bond transactions.