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To: Senate Federal and State Affairs Committee

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Subject: **SB 400** – Opposing Efforts to Modify Long-Standing State Policy Against the Requirement for Landlords to Disclose the Names of Tenants to Municipalities

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® to offer testimony in opposition to **SB 400**. Through the comments expressed herein, it is our hope to provide additional legal and policy context to the discussion on this issue.

KAR is the state's largest professional trade association, representing nearly 8,000 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 homeowners for over 90 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life, sustainable communities and providing affordable housing opportunities, while protecting the rights of private property owners.

As currently drafted, **SB 400** would modify the provisions of **K.S.A. 12-16,123** to allow cities to require landlords to provide a list of all tenants occupying rental property owned by the landlord if the city has adopted a rental licensing ordinance requiring the owners of single-family dwellings in residential zoning districts to obtain rental licensing permits prior to the leasing, subleasing, renting or occupancy of such dwelling. Accordingly, **SB 400** would effectively reverse the state's long-standing policy against any requirements for landlords to disclose the names of tenants to municipalities.

During the 2001 Legislative Session, the Kansas Legislature enacted **K.S.A. 12-16,123**, which prohibits municipalities from adopting or enforcing ordinances or resolutions that would require any landlord to provide such municipalities with a list of the names of any tenants of such landlord. Since the passage of this legislation, REALTORS® strongly believe that nothing has changed that would negate the concerns that originally prompted the enactment of the prohibitions contained in **K.S.A. 12-16,123**.

As a starting point for this discussion, REALTORS® have serious reservations about the ever-increasing and overzealous regulation of the rental housing industry by local governments. Based on our experience, the most commonly cited purpose for the regulation of rental housing by local governments is to protect the character of existing residential neighborhoods and the health, safety and welfare of the tenants of rental housing.

Unfortunately, many rental registration requirements adopted by local governments are guilty of regulatory overreach and are not narrowly-tailored to address the specific and legitimate purposes of rental regulation. In general, REALTORS® believe it is generally undisputed that municipalities have a reasonable and legitimate interest in adopting land use restrictions through local ordinances that control excessive noise, abate nuisances, ensure property maintenance and regulate parking in rental structures.

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However, REALTORS® also strongly believe that many ordinances enacted under the guise of rental registration requirements do not address these reasonable and legitimate interests of municipalities and instead seek to deter residential property owners from making productive use of their property through the rental housing market. For example, one glaring example of a type of ordinances that are unreasonable infringements on private property rights are restrictions on the ability of rental property owners to rent property to individuals based on their legal or citizenship status or lack of familial or blood relationship to other occupants of the property.

In some of these ordinances, a municipality effectively seeks to prohibit the owner of a rental property in a residential zoning district from renting his or her property to any unrelated individuals that wish to occupy the property. The stated purpose behind the enactment of these ordinances is to “preserve the character of single-family residential neighborhoods” by regulating the occupancy of all residential structures within the neighborhood, but the end result is an unreasonable restriction on the alienability and use of residential property and an infringement on the rights of private property owners.

REALTORS® strongly believe that a municipality has no legitimate and reasonable interest in regulating whether a group of unrelated individuals can choose to reside together in a residential structure. As long as the property owner and tenants comply with all the applicable local ordinances regulating excessive noise, abatement of nuisances, conformance with property maintenance standards and regulation of parking requirements, then there should be no unreasonable restraints on the liberty of unrelated individuals to choose to reside together in a residential structure.

In addition, some municipalities have adopted ordinances requiring the owner of a rental property to verify the legal status or citizenship of the tenants of rental property and to provide that information to the municipality for verification of the legal status or citizenship of the tenants. Again, these requirements serve no legitimate and reasonable interest in ensuring that the property owner and tenants comply with all the applicable local ordinances regulating excessive noise, abatement of nuisances, conformance with property maintenance standards and regulation of parking requirements.

According to a considerable amount of research in the public domain on this issue, unreasonable rental restrictions on residential property can potentially result in various negative economic effects for private property owners and the Kansas economy including:

- (1) reduction in income growth for Kansas residents due to a reduction in rental income potential for rental property owners;
- (2) reduction in state income tax revenue due to a loss in income potential for rental property owners;
- (3) decreased property values due to restrictions on the future use of potential rental property, which will significantly decrease the marketability of such property on the real estate market;
- (4) decreased property tax revenues for local governments due to the decrease in property values for potential rental properties that cannot be rented under unreasonable rental restrictions;
- (5) increased housing costs for tenants of rental property due to an unreasonable restriction on the number of rental housing units available on the rental market; and
- (6) increased property taxes to cover increased governmental administrative expenses to cover the cost of adopting and enforcing rental regulation requirements, which rarely cover the actual and true cost of administering the rental regulation requirements.

As an alternative to the adoption and enforcement of burdensome and unreasonable rental housing regulation requirements, REALTORS® strongly believe that municipalities should instead adopt and enforce generally-accepted local ordinances controlling excessive noise, abating nuisances, ensuring that properties are maintained according to property maintenance standards and regulating parking requirements for rental properties. In doing so, there is less risk that the municipality will overreach and effectively limit the ability of the property owner to utilize his or her property to its fullest economic use.

The most common regulation affecting single-family residential dwellings used as rental properties is to require the registration of the name, address and telephone number of the property owner or a registered agent representing the property owner to ensure that the municipality can communicate with the property owner regarding the violation of other municipal ordinances. In some cases, rental registration ordinances also require an annual or semi-annual inspection of the rental property to ensure that all minimum property maintenance requirements are being followed to protect the health, safety and welfare of the tenants of the rental property.

Once a municipality chooses to adopt a rental registration requirement, I have not been able to identify a single resource that would label a requirement that the owner of a rental property provide the municipality with the names of all the tenants residing in a rental property as a "best practice." This is due to the fact that this information is completely unnecessary to accomplish the underlying purpose of the requirements, which is to verify the ownership of rental property and protect the health, safety and welfare of tenants.

Under the current provisions of **K.S.A. 12-16,123(c)**, a municipality may require a landlord to provide the municipality with a list of the names of tenants occupying the rental property if a citation for a violation of an ordinance or resolution adopted to protect the public health, safety or welfare has occurred on the rental property. This provision ensures that the municipality can enforce all existing ordinances against the occupants of rental property when there is proof that the occupants are in violation of an ordinance.

If the true intent behind the enact of rental registration requirements is to ensure the enforcement of local ordinances regulating excessive noise, abatement of nuisances, conformance with property maintenance standards and regulation of parking requirements, then the existing language in **K.S.A. 12-16,123(c)** provides municipalities with all the necessary information to accomplish that purpose. Accordingly, I fail to see the need to enact additional restriction on the owners of residential rental property by passing the burdensome and unreasonable requirements contained in **SB 400**.

In addition to the fact that there is absolutely no need for the additional requirements contained in **SB 400**, the passage of the new requirements would unreasonably infringe upon the privacy rights of the tenants occupying the residential rental property. In my opinion, a municipality has no legitimate and reasonable interest in acquiring the names of the occupants of residential rental property other than to enhance the enforcement of burdensome and unreasonable occupancy restrictions on the property.

For all the foregoing reasons, we would urge the members of the Senate Federal and State Affairs Committee to preserve existing state policy on this issue and protect the privacy rights of tenants by opposing the provisions of **SB 400**. Thank you again for the opportunity to testify and I would be willing to stand for questions at the appropriate time.

