

Testimony of Commerce Secretary Pat George In Support of HB 2272

House Commerce, Labor and Economic Development Committee

1:30 p.m., Tuesday, Feb. 19, 2013
346-S, The Statehouse

Good afternoon, Mr. Chairman, and members of the Committee. I wish to express my support for HB 2272, legislation which makes a technical change to the Industrial Revenue Bonds tax abatement statute (K.S.A. 79-201a, *Second*).

The Kansas Court of Tax Appeals (COTA) has interpreted this section to require that fee ownership of real property be in the county or city. Many small businesses need or prefer to use the Small Business Administration (SBA) 504 loan program for financing their needs in Kansas.

The SBA will not allow title to be transferred to the county or city in connection with the 504 loan program. Consequently, under the COTA interpretation that the county or city must own fee title to the property, SBA 504 financing is not available to Kansas small businesses.

Under Kansas IRB requirements, a lease structure is necessary. However, counties and cities can use a structure where fee title is not transferred, but instead the company leases the property to the county or city and then the county or city leases it back to the company and this satisfies the IRB statute requirements. However, under the requirements of 79-201a, *Second*, as interpreted by COTA, the IRB 10-year-tax abatement would not be available.

The proposed legislation would create a new IRB abatement section under 79-201a, *Twenty-Four*, that would make it clear that so long as 100 percent of the project was financed with IRBs (regardless of whether fee title transfers to county or city) then the 10-year IRB abatement would be available.

This change would allow small businesses to use SBA loans as their financing for capital investment in Kansas.

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