



**Date: March 6, 2023**

**To: Senate Committee on Judiciary  
Senator Kellie Warren, Chairman**

**From: Kelly VanZwoll—Assistant Vice President Government  
Relations, Kansas Bankers Association**

**Re: Written Proponent Testimony for SB 258**

Dear Chairman Warren and Members of the Committee:

I am Kelly VanZwoll providing testimony on behalf of the Kansas Bankers Association (KBA), organized in 1887 and whose membership includes 98% of the 220 banks and savings & loans headquartered in Kansas. Our membership also includes 20 out-of-state commercial banks operating in Kansas. The Kansas banking industry employs more than 22,000 Kansans that provide financial services in every county across the state. Our organizational mission statement is:

*"Together, we support our member banks and bankers with leadership, advocacy, and education to benefit the communities and customers they serve."*

Thank you for the opportunity to submit testimony in support of SB 258, which creates a civil action for determining whether litigation that alleges any access violation under the Americans with Disabilities Act (ADA) or similar law constitutes abusive litigation. The bill also authorizes penalties for such abusive litigation.

Our interest in this bill stems from activity by a Pennsylvania law firm here in Kansas. In 2017 we were alerted by member banks that a demand letter was being circulated in the state from this out-of-state firm, claiming that they represented a Kansas resident who was visually impaired and who attempted to access the bank's website, but the website had "access barriers" purportedly giving rise to a claim for violation of the Americans with Disabilities Act.

Enclosed with each demand letter was a proposed draft "Settlement Agreement", setting forth the terms under which the firm offered to settle the purported ADA claims against the bank. In essence, the Agreement offered to provide the bank with a full release of claims if the bank agreed to pay certain attorneys' fees, and agreed to retain the firm to represent the bank in defending against future ADA claims based on the bank's website for two years.

These letters raised many red flags for our members and for us. As our members struggled to respond to these claims, we sought advice from the legal experts in the state. The first step in this journey was to visit with the Kansas Office of Disciplinary Administrator to see if our concerns were misplaced. Through that conversation, we were reminded that while this office had jurisdiction over Kansas licensed attorneys, they could not reach attorneys licensed in other states. We then turned our focus to a legislative solution which led us to working with the Attorney General on an unauthorized practice of law bill. At the time Kansas was one of the few states that did not address the unauthorized practice of law in statute. A bill was passed in the 2017 legislative session which gave Kansas citizens and the Attorney General the tools needed to address improper actions on the part of persons acting outside the rules that the Supreme Court of Kansas has put in place for Kansas-licensed attorneys.

We believe that SB 258 is the next needed step on this issue. We know that banks were not the only industry affected and we hope that this cause of action will give some relief to businesses who are targeted by these improper and abusive claims.

Thank you, once again, for this opportunity to offer support for SB 258, and we respectfully request that the Committee act favorably on its passage. If, at a later time, you have questions or require additional information, please get in touch with me at [kvanzwoll@ksbankers.com](mailto:kvanzwoll@ksbankers.com) or (785) 232-3444.