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To: House Commerce Committee

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Subject: **SB 352** – Supporting Proposed Changes to Real Estate Licensing Statutes to Simplify the Real Estate Licensure Process for Out-of-State Licensees

Chairman Hutton and members of the House Commerce Committee, thank you for the opportunity to provide testimony today on behalf of the Kansas Association of REALTORS® in support of **SB 352**, which would simplify the real estate licensure process to make it easier for out-of-state real estate professionals who do not meet all of the requirements for a brokers' license in Kansas to obtain a salespersons' license. Through the comments provided in our testimony, we hope to provide some additional legal and public policy context on this issue.

KAR is the state's largest professional trade association, representing nearly 8,500 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 property owners for over 95 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 and providing affordable housing opportunities while protecting the rights of private property owners.

Quick Refresher on the Form and Function of the Real Estate Industry Relating to Real Estate Licensure

As background on this legislation, we thought it might be helpful to first provide the committee members with a quick refresher on how the real estate industry is organized and how it functions as it relates to state licensure. There are two types of real estate licensees that can be obtained from the Kansas Real Estate Commission – a real estate broker's license and a real estate salesperson's license.

First, the real estate brokers' license is the highest level of licensure recognized under the Kansas Real Estate Brokers' and Salespersons' License Act (KREBSLA). Individuals licensed as real estate brokers are required to have considerable real estate transaction experience and must pass specialized education and testing to ensure that they have sufficient knowledge about real estate transactions and the real estate industry to protect consumers in real estate transactions.

Second, the real estate salespersons' license is the entry level license recognized under KREBSLA. Although there are considerable education and testing requirements that must be satisfied before an individual can be licensed as a real estate salesperson, there is no real estate transaction experience as a prerequisite for this license.

Once an individual is licensed as a real estate salesperson, they are only allowed to work under the direct supervision of an individual that is licensed as a real estate broker. The licensed real estate broker is responsible for all of the actions of any real estate salespersons affiliated with his or her brokerage and can be disciplined by the Kansas Real Estate Commission for a failure to adequately supervise the activities of real estate salespersons.

Support for the Pro-Business Simplification Proposed by the Kansas Real Estate Commission

Over the past few months, the Kansas Real Estate Commission has been engaged in an effort to simplify the statutes and regulations that pertain to the real estate industry and real estate licensure. Kansas REALTORS® commend the Commission for this effort and this legislation represents one of the results of that effort.

The Commission is also in the process of revising and repealing numerous regulations that are either obsolete or are overly burdensome for Kansas real estate professionals and provide little protection to Kansas consumers. In our opinion, this furthers the mission of the Commission to protect the public interest in the buying, selling or leasing of real estate while not overly burdening the real estate industry with excessive regulations.

Under current law, the Commission is prohibited from issuing a real estate salesperson's license to any individual who is licensed as a real estate broker in another state. The only option provided to the Commission when an application for a Kansas real estate license is received from an out-of-state real estate licensee is to grant a real estate broker's license to the out-of-state real estate licensee.

Unfortunately, the Commission has seen an increasing number of applications from applicants who are licensed real estate brokers in other states and do not meet the education or experience requirements for a Kansas real estate brokers' license. Under current law, the Commission is forced to deny the application and cannot give the out-of-state licensee the option of becoming licensed in Kansas as a real estate salesperson.

For example, the state of Missouri requires individuals that are engaged in the practice of residential property leasing and management to be licensed as real estate brokers. KREBSLA and other real estate statutes in Kansas specifically exclude residential property leasing and management. Individuals are allowed to perform residential property leasing and management services in Kansas without a real estate license.

As a result, there are many individuals in Missouri that are licensed real estate brokers in full compliance with Missouri statutes and regulations, but they have never helped a consumer buy or sell a single commercial or residential property, which means they would not be qualified to provide those services in Kansas. If one of these individuals was to make an application for a Kansas real estate brokers' license, they would be completely unfamiliar with residential real estate sales transactions and do not meet our licensure requirements.

The changes proposed by the Commission in **SB 352** would provide the Commission with the authority to issue a real estate salespersons' license to an applicant in these situations. In most cases, the applicant has no desire to open an independent real estate brokerage in Kansas and they simply want to work under an experienced Kansas real estate broker and represent businesses and individuals in the buying, selling or leasing of property.

In our opinion, the proposed amendments will provide out-of-state real estate licensees with the ability to obtain a real estate salespersons' license in Kansas and perform those functions while maintaining adequate consumer protection for Kansas families, farmers and small businesses. Over time, as these out-of-state licensees gain experience as a real estate salesperson in Kansas, they can accrue experience and become qualified to obtain a Kansas real estate brokers' license.

SB 352 Also Repeals an Obsolete Statutory Provision Relating to Legal Notices for Non-Resident Licensees

In addition, **SB 352** also repeals a subsection of the statute that contains an obsolete requirement for non-resident real estate licensees to designate the Executive Director of the Commission as the non-resident licensee's agent for the purposes of serving legal notices. Following consultation with the Commission's general counsel and the Attorney General's office, the Commission recommends repeal of this subsection because this procedure has not been used in many years and because it conflicts with the established procedures for service of process in the Code of Civil Procedure.

Conclusion

In closing, we would respectfully request that the members of the House Commerce Committee support **SB 352**, which contains pro-business changes that will simplify the process for out-of-state real estate licensees to become licensed as real estate salespersons in Kansas. Thank you for the opportunity to provide written comments on this very important issue.