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To: Senate Commerce Committee

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Subject: **SB 106** – Supporting the Technical and Non-Controversial Amendments to KREBSLA and BRRETA  
Proposed by the Kansas Real Estate Commission

Chairperson Lynn and members of the Senate Commerce Committee, thank you for the opportunity to provide testimony today on behalf of the Kansas Association of REALTORS® in support of **SB 106**, which makes various technical and non-controversial changes to the Kansas Real Estate Brokers' and Salespersons' License Act (KREBSLA) and the Brokerage Relationships in Real Estate Transactions Act (BRRETA). 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 8,000 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.

#### What is the Overriding Intent Behind the Legislation?

Over the last five years, the Kansas Real Estate Commission (KREC) has undertaken a comprehensive review of KREBSLA and BRRETA in order to identify several technical and non-controversial changes that should be made to the statutes in order to correct problems identified by the Commission staff and real estate licensees. At every step in this process, the Commission has requested feedback from Kansas REALTORS® and has taken great steps to ensure that our feedback has been incorporated into the changes contained within **SB 106**.

#### Summary of the Major Provisions in the Legislation

Although this appears to be a large bill due to the number of statutes that had to be opened up to make the proposed changes, **SB 106** contains just five technical or non-controversial changes to KREBSLA and BRRETA. In an effort to help simplify the discussion, I will summarize and provide the policy rationale for each provision below.

#### **Section 1: Technical Changes to Continuing Education Provisions and Approval of Education Providers**

Under Section 1, the Commission has proposed to change the term "additional instruction" to "continuing education" in K.S.A. 58-3046a(e), (f) and (k). This will not change the interpretation of the statute or modify any substantive law, but it simply updates the term to reflect the common nomenclature within the industry.

In addition, the Commission has proposed to amend K.S.A. 58-3046a(h) to update the Commission's process for approving continuing education course providers. In K.S.A. 58-3046a(h)(2), the Commission has proposed to change the term "area vocation or vocational-technical school" to "technical college." This is the term that is now used in the statute that is referred to in this statute. The intent is of course that technical colleges will still be approved continuing education providers under this statute.

Moreover, the Commission has proposed to amend K.S.A. 58-3046a(h)(6) to provide the Commission with the authority to approve additional entities to offer continuing education courses. In the past, all other continuing education providers must have been approved by the Kansas Board of Regents.

However, the Board of Regents no longer certifies these institutions for continuing education courses unless they also have a pre-license program that is reviewed by the Board of Regents. At this time, many of the continuing education providers that provide education to Kansas real estate licensees do not have a pre-licensing program and are thus not eligible for approval by the Board of Regents. The approval of this language simply means that the Commission will have the authority to review and approve these providers so that they may continue to offer continuing education courses to Kansas real estate licensees.

## **Section 2: Allowing Commission to Refuse to Grant Applications and Impose Conditions on License Applicants**

Under Section 2, the Commission has proposed to amend K.S.A. 58-3050 to allow the Commission to refuse to grant or renew a real estate license or place conditions upon the approval of a real estate license when an applicant has committed any of the acts contained within the existing language in K.S.A. 58-3050. Under current law, the Commission has the authority to refuse to renew a license application or impose discipline on an existing real estate licensee for violating the provisions of this statute, but does not have the same authority to refuse to grant an original license or impose discipline on a new license applicant for violating this statute.

## **Section 3: Provides the Commission with the Authority to Discipline Applicants and Licensees for Engaging in Fraudulent Conduct, Forgery or Obstructive Conduct in an Audit, Investigation or License Application**

Under Section 3, the Commission has proposed to amend K.S.A. 58-3062 to provide the Commission with the authority to impose discipline on new license applicants or existing real estate licensees for engaging in fraudulent conduct, forgery or obstructive conduct with respect to an audit, investigation or license application. On occasion, the Commission has dealt with situations where either applicants for a new license or existing real estate licensees have attempted to apply for a real estate license or avoid discipline for a violation of KREBSLA or BRRETA by engaging in fraud, forging documents or refusing to cooperate with investigations by threatening witnesses, destroying evidence or refusing to respond to the Commission's request for documents.

If approved, this language would provide the Commission with the authority to impose discipline on either new applicants or existing real estate licensees who engage in this behavior. In our opinion, this will ensure that the public is protected from unscrupulous or unqualified individuals who are seeking to either acquire or maintain a real estate license by engaging in one of the acts specified in the proposed language.

## **Section 4: Clarifies Application of the Statute to Transaction Brokers**

Under Section 4, the Commission has proposed to amend K.S.A. 58-30,103(p) to ensure that the statute applies equally to a real estate licensee acting as either a statutory agent or a transaction broker for the seller or landlord. The current language in K.S.A. 58-30,103(p) does not recognize the fact that the seller or landlord may be represented in the transaction by a transaction broker instead of a statutory agent. This is simply a technical correction that will conform the statute to current practice in the industry.

## **Section 5: Corrects a Drafting Error in the Statute**

Under Section 5, the Commission has proposed to amend K.S.A. 58-30,106(j) to clarify a drafting error in the statute. The new language will simply change the word "or" to "on" in one sentence of the statute. At some point since the enactment of BRRETA in 1998, there was a drafting error and the word "or" was inadvertently put into the statute. This is simply a technical correction that will conform the statute to current practice in the industry.

## Conclusion

In closing, we would respectfully request that the members of the Senate Commerce Committee support **SB 106** to correct the problems currently caused by the statutory language in KREBSLA and BRRETA and resolve some uncertainties about how these respective statutes should be interpreted and enforced. Thank you for the opportunity to provide comments on this issue.