

Approved 2/22/83  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Edward F. Reilly, Jr. at  
Chairperson

11:00 a.m. on February 16, 1983 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present: Fred Carman, Assistant Revisor of Statutes  
Russell Mills, Legislative Research  
Emalene Correll, Legislative Research  
June Windscheffel, Committee Secretary

Conferees appearing before the committee: Kent Jackson, Assistant Director, Kansas Fish  
and Game Commission  
Larry Humes  
Tim Underwood, Kansas Association of Realtors  
Paul Flower, Real Estate Commission

Kent Jackson was introduced by the Chairman. Mr. Jackson spoke to SB186, concerning water vessels and certain lifesaving devices. He said that the commission does not support this bill for two reasons: it sets a precedent of exempting certain vessels from safety laws and it weakens the purpose of the statute. He said that windsurfers by definition have to be registered and are considered vessels, and water skis are not considered vessels.

Larry Humes appeared next and spoke in support of SB186. He submitted a statement (Attachment #1), stating that the United States Coast Guard had removed itself from enforcing the requirement that windsurfers must have a personal flotation device and left the decision to the individual states.

SB264 was next for consideration, concerning amendments to real estate brokers' and salespersons' license act. Russell Mills distributed copies of the primary statute dealing with the subject. (Attachment #2).

Tim Underwood, of the Kansas Association of Realtors, appeared before the committee in support of SB264. A prepared statement from Mr. Underwood is attached (Attachment #3). In essence the statement says that the Association supports SB264, concerning revisions to the real estate license law.

At this point the Chairman had to relinquish the chair because of a commitment to testify before another committee, and Senator Morris assumed the chair.

Paul Flower also appeared in support of SB264.

No action was taken on any of the bills which were heard in committee.

The meeting adjourned at 12:00 noon.

Senate Bill 186

Proponents: Larry Humes, Tom Welsh

In 1973 the manufacturers of windsurfers proved to the United States Coast Guard that, due to the construction of the windsurfer, persons windsurfing without a personal floatation device ( pfd) were very safe. The U.S.C.G. found that this requirement of persons to wear a PFD was an inhibitive redundancy and actually a poor substitute in comparison to the windsurfer. The U.S.C.G. therefore removed themselves from enforcing this requirement and have left the decision to the individual states. (Chief Warrant Officer Boyle, Boating Safety Division, 2nd Coast Guard District, St. Louis. Toll free number: 1-800-325-7376).

District Attorney John Boyle (Jefferson County) agrees with the Coast Guard ruling. Mr. Boyle stated that removing this requirement was an excellent idea from a prosecution standpoint.

There is certainly no other agency, governmental or private, which has a greater concern for boating safety than the U.S.C.G. I cannot think of a more stringent standard than that which would be applied by the U.S.C.G.

Thank you for this opportunity to testify in support of Semate Bill 186.

February 14, 1983

2/16/83  
Attachment #2

any of the acts within the scope of this act with reference to such person's own property.

(b) Any person who directly performs any of the acts within the scope of this act with reference to property that such person is authorized to transfer in any way by a power of attorney from the owner, provided that such person receives no commission or other compensation, direct or indirect, for performing any such act.

(c) Services rendered by an attorney licensed to practice in this state in performing such attorney's professional duties as an attorney.

(d) Any person acting as receiver, trustee in bankruptcy, administrator, executor or guardian, or while acting under a court order or under the authority of a will or a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency.

(e) Any officer or employee of the federal or state government, or any political subdivision or agency thereof, when performing the official duties of the officer or employee.

(f) Any multiple listing service wholly owned by a nonprofit organization or association of brokers.

(g) Any nonprofit referral system or organization of brokers formed for the purpose of referral of prospects for the sale or listing of real estate.

(h) Railroads or other public utilities regulated by the state of Kansas, or their subsidiaries, affiliated corporations, officers or regular employees, unless performance of any of the acts described in subsection (c) of K.S.A. 1982 Supp. 58-3035 is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof.

(i) The sale or lease of real estate by an employee of a corporation which owns or leases such real estate, if such employee owns not less than five percent (5%) of the stock of such corporation.

(j) The sale or lease of new homes by a person, partnership, association or domestic corporation who constructed such homes, but the provisions of this act shall apply to the sale or lease of any such homes by any

employee of such person, partnership or association or by any employee of such corporation who owns less than five percent (5%) of the stock of such corporation.

(k) The lease of real estate for agricultural purposes.

History: L. 1980, ch. 164, § 4; July 1.

**58-3038.** Licensure required to recover compensation. No action shall be instituted or recovery be had in any court of this state by any person for compensation for any act or service, the performance of which requires a license under this act, unless such person was duly licensed under this act at the time of offering to perform any such act or service or procuring any promise to contract for the payment of compensation for any such contemplated act or service. Nothing herein shall preclude a person who is properly licensed as a broker or salesperson in another jurisdiction from collecting a referral fee.

History: L. 1980, ch. 164, § 5; July 1.

**58-3039.** Licensure; application; qualifications; examination. (a) Any person desiring to act as a broker or salesperson must file a written application for a license with the commission. The application shall be in such form and detail as the commission shall prescribe and shall be accompanied by the appropriate license fee.

(b) A license to engage in business as a broker or salesperson shall be granted only to a person who is eighteen (18) or more years of age and who has a high school diploma or its equivalent.

(c) In addition to the requirements of subsection (b), each applicant for an original license as a broker shall have been licensed and actively engaged in business as a salesperson, in this or another state, for a period of at least two (2) years during the five (5) years immediately preceding the date of the application for a license. The commission, in its discretion, may accept proof of experience deemed by the commission to be equivalent to two-years' experience as a salesperson.

(d) Except as provided in K.S.A. 1982 Supp. 58-3040, each applicant for an original license shall be required to pass a written examination covering generally the matters confronting brokers or salespersons, and no license shall be issued on the basis of such an examination which was adminis-

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**58-3040.** Non...  
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tered more than four (4) months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 1982 Supp. 58-3063, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(e) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of broker or salesperson in such manner as to safeguard the public interest.

(f) An application for an original license as a salesperson shall be accompanied by the recommendation of the broker with whom the salesperson is to be associated, or by whom the salesperson is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.

History: L. 1980, ch. 164, § 6; July 1.

**58-3040. Nonresident license.** (a) A nonresident of this state may be granted a broker's license if:

(1) The nonresident is licensed as a broker in the nonresident's state of residence; and

(2) Such nonresident meets all requirements imposed by this act on Kansas residents for licensure as a broker, except that the commission may waive the examination requirement for a nonresident who has passed an examination equivalent to that given to Kansas residents and whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses.

(b) A nonresident salesperson or associate broker employed by or associated with a broker licensed pursuant to this act may be granted a salesperson's or broker's license under such broker, if:

(1) The salesperson or associate broker is licensed as a salesperson or associate broker in the salesperson's or associate broker's state of residence; and

(2) Such salesperson or associate broker meets all requirements imposed by this act

on Kansas residents for licensure as a salesperson or broker, except that the commission may waive the examination requirement for a nonresident salesperson or associate broker who has passed an examination equivalent to that given to Kansas residents and whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses.

(c) Prior to the issuance of a license to a nonresident, the applicant shall file with the commission a designation in writing that appoints the director of the commission as the applicant's agent, upon whom all judicial and other process or legal notices directed to the applicant may be served in the event such applicant becomes a licensee. Any process or legal notices to a nonresident licensee shall be directed to the director, accompanied by a fee of three dollars (\$3), and, in the case of a summons, shall require the nonresident licensee to answer within forty (40) days from the date of service on such licensee. A summons and a certified copy of the petition shall be forthwith forwarded by the clerk of the court to the director, who shall immediately forward a copy of the summons and the certified copy of the petition to the nonresident licensee. Thereafter, the director shall make return of the summons to the court from which it was issued, showing the date of its receipt by the director, the date of forwarding and the name and address of the person to whom the director forwarded a copy. Such return shall have the same force and effect as a return made by the sheriff on process directed to the sheriff.

(d) Prior to the issuance of a license to a nonresident, the applicant must agree in writing to abide by all provisions of this act with respect to the applicant's real estate activities within the state and submit to the jurisdiction of the commission and the state in all matters relating thereto. Such agreement shall be filed with the commission and shall remain in force for so long as the nonresident is licensed by this state and thereafter with respect to acts or omissions committed while licensed as a nonresident.

(e) A nonresident licensed under this section shall be entitled to the same rights and subject to the same obligations as are provided in this act for Kansas residents, except that revocation or suspension of a

nonresident's license in the nonresident's state of residence shall automatically cause the same revocation or suspension of such nonresident's license issued under this act. No hearing shall be granted to a nonresident licensee where license is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident's license by the nonresident's state of residence.

History: L. 1980, ch. 164, § 7; July 1.

**58-3041. Restricted license.** (a) The commission may at any time issue a restricted license to a person:

(1) Who is or has been licensed but who has been found by the commission after a hearing to have violated any provision of this act or rules and regulations adopted hereunder; or

(2) Who is applying for an original license under this act and has met the examination and experience requirements but has been found by the commission after a hearing to have failed to make a satisfactory showing that he or she meets all other applicable requirements.

(b) A restricted license issued pursuant to this section may be restricted, as the commission determines advisable in the public interest, as follows:

- (1) By term;
- (2) To employment by or association with a particular broker as an independent contractor;
- (3) To a particular type of transaction; or
- (4) By other conditions deemed advisable by the commission, including the filing of a surety bond in such amount as may be required by the commission for the protection of persons with whom the licensee may deal.

(c) The holder of a restricted license shall not be entitled to automatic renewal of such license, such renewal being in the discretion of the commission.

History: L. 1980, ch. 164, § 8; July 1.

**58-3042. License nontransferable; only individuals licensed.** (a) No real estate license shall give authority to any person other than the person to whom the license is issued.

(b) No license shall be granted to a corporation or partnership. Each person who is

an officer of a corporation or a member of a partnership or association and who performs any act described in subsection (c) of K.S.A. 1982 Supp. 58-3035 shall be a licensed broker, and each person who is employed by or associated with a corporation, partnership or association and who performs any act described in subsection (c) of K.S.A. 1982 Supp. 58-3035 shall be a licensed broker or licensed salesperson.

History: L. 1980, ch. 164, § 9; July 1.

**58-3043. Considerations in granting license.** (a) In determining whether to grant a license the commission shall consider:

(1) Any revocation or suspension of a prior real estate license;

(2) Whether an applicant has committed any of the practices enumerated in K.S.A. 1982 Supp. 58-3062 or has violated this act or rules and regulations adopted hereunder during the term of any prior license;

(3) Any conviction of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense or of a felony or a crime involving moral turpitude; and

(4) Such other matters as the commission deems pertinent.

In its consideration of any such prior revocation, conduct or conviction, the commission shall take into account the nature of the offense; any aggravating or extenuating circumstances; the time elapsed since such revocation, conduct or conviction; the rehabilitation or restitution performed by the applicant; and such other factors as the commission deems relevant. The commission, in its discretion, may deny a license to any person who, without a license, has engaged in a real estate activity for which a license was required.

(b) When an applicant has made a false statement of material fact on the application, such false statement, in the discretion of the commission, may be sufficient ground for refusal of a license.

History: L. 1980, ch. 164, § 10; July 1.

**58-3044. Denial of license; hearing.** (a) If the commission, after an application for a license or renewal of a license has been filed with the proper form, accompanied by the proper fee, shall refuse to issue or renew the license, it shall give notice of its refusal to the applicant within ten (10) days after its

decision. The notice shall state the reasons for such refusal.

(b) Upon written request of the applicant, filed within two (2) days of such notice, the commission shall set a hearing in which the applicant shall receive an opportunity to be heard on the applicant's reasons for refusal of the license. The hearing shall be held within sixty (60) days of the applicant's request and shall be held at a time and place as the commission may determine. At least thirty (30) days before the hearing, the commission shall give notice of the date and time of the hearing to the applicant or licensee and to the applicant's or licensee's business address.

(c) Notwithstanding the contrary, an applicant who is not entitled to a hearing on an application is refused a license shall be entitled to a hearing on the examination.

History: L. 1980, ch. 164, § 11; July 1.

**58-3045. Expired license; renewal.** (a) Each license issued by the commission shall be subject to automatic renewal unless determined in accordance with the rules established by the commission, which shall not exceed two (2) years from the date of renewal. Except as provided in this act, applicants for a license must meet the requirements prior to the issuance of the license.

(b) Each license issued by the commission upon the filing of an application for a license, of a renewal of the license, or of an application for a license shall be subject to the requirements provided by the commission. The commission shall determine compliance with the requirements of this act. 1980 Supp. 58-3041. A license is issued on or after the date other than one year from the date the license was issued shall compute to the next anniversary of the required fee, based on the date provided for by K.S.A. 1980 Supp. 58-3041. Failure to remit the fee shall automatically cause the license to be considered as a license that any licensee who is required to renew the license shall be required to renew the licensee's license.

decision. The notice shall set forth the reasons for such refusal.

(b) Upon written request from the applicant, filed within twenty (20) days after service of such notice on the applicant, the commission shall set the matter for a hearing in which the applicant or licensee shall receive an opportunity to refute the commission's reasons for refusing to issue or renew the license. The hearing shall be conducted within sixty (60) days after receipt of the applicant's request and shall be at such time and place as the commission shall prescribe. At least thirty (30) days prior to the date set for the hearing, the commission shall send notice of the date and place of the hearing to the applicant or licensee by registered mail to the applicant's or licensee's last known business address.

(c) Notwithstanding anything herein to the contrary, an applicant for a license shall not be entitled to a hearing if the applicant's application is refused for failure to pass an examination.

History: L. 1980, ch. 164, § 11; July 1.

**58-3045.** Expiration of license; renewal. (a) Each license issued or renewed by the commission shall expire on a date determined in accordance with a schedule established by rules and regulations of the commission, which date shall be not more than two (2) years from the date of issuance or renewal. Except as otherwise provided by this act, applicants for issuance or renewal of a license must satisfy all applicable requirements prior to issuance or renewal of the license.

(b) Each license shall be renewable upon the filing, prior to the expiration date of the license, of a renewal application. Such application shall be made on a form provided by the commission and accompanied by the required renewal fee and evidence of compliance with the requirements of K.S.A. 1980 Supp. 58-3046. In each case in which a license is issued or renewed for a period of other than one year, the commission shall compute to the nearest whole month the required fee, based on annual renewal fee provided for by K.S.A. 1982 Supp. 58-3063. Failure to remit the required fee when due will automatically cancel the license, except that any licensee who fails to pay the required renewal fee when due may have the licensee's license reinstated and renewed by

the payment of the required renewal fee and a late fee of fifty dollars (\$50), if such fees are remitted to the commission not later than six months following the expiration date of such license.

(c) An application for renewal filed in compliance with the requirements of subsection (b) shall entitle the applicant to continue operating under the applicant's existing license after its specified expiration date, unless such license has been suspended or revoked and has not been reinstated or unless such license is restricted, until such time as the commission determines whether the application fulfills such requirements.

(d) If the commission determines that the applicant has not complied with the requirements for renewal of the applicant's license, it shall advise the applicant of an extended period for compliance under K.S.A. 1980 Supp. 58-3046 or advise the applicant that the applicant's right to operate under the prior license will expire twenty-five (25) days from the date such notice is mailed or on the date the license would normally expire, whichever is later. The commission, in its discretion, may extend the expiration date whenever a hearing is requested.

History: L. 1980, ch. 164, § 12; July 1.

**58-3046.**

History: L. 1980, ch. 164, § 13; Repealed, L. 1982, ch. 231, § 3; July 1.

**\*58-3046a.** Educational requirements. (a) Any person who applies for an original license in this state as a salesperson after July 1, 1982, shall submit, at the time of the original application, evidence, satisfactory to the commission, of attendance of a principles of real estate course, of not less than 30 hours of instruction, approved by the commission.

(b) Any person licensed in this state as a broker or salesperson shall submit, at or prior to the time such person makes application for each license renewal after July 1, 1982, evidence, satisfactory to the commission, of attendance of not less than eight hours of additional instruction during the period preceding the application for renewal of the license. Any person who obtains an original license as a salesperson after July 1, 1982, provided such original license expires less than six months after issuance, shall not be required to submit evidence of attend-

tion of licensees; real estate courses and institutes; real estate recovery revolving fund, publicity. (a) The commission shall publish at least annually a list of the names and addresses of all persons licensed under the provisions of this act, together with such other information relative to the enforcement of the provisions of this act as it may deem of interest to the public.

(b) The commission, may conduct, hold or assist in conducting or holding real estate courses or institutes, and incur and pay the necessary expenses incurred thereby, which courses or institutes shall be open to any licensee without any charge or fee therefor.

(c) The commission may assist real estate institutes and foundations, with financial aid or otherwise, in sponsoring studies, surveys and programs for the benefit of real estate licensees, and the elevation of the real estate business.

(d) The commission shall publicize (1) the existence of the real estate recovery revolving fund and the availability of recovery therefrom; (2) the acts for which recovery may be allowed; and (3) information regarding the filing of claims for payments, including the conditions and limitations to which the filing of claims and recovery are subject under the provisions of the real estate brokers' and salespersons' license act.

History: L. 1980, ch. 164, § 15; L. 1981, ch. 304, § 1; July 1.

**58-3049. Deactivated license.** (a) The license of a broker or salesperson may be deactivated upon request of such broker or salesperson and return of the license to the commission. Such license shall be held in the office of the commission for the period that it remains deactivated.

(b) A license which is deactivated and which is not suspended or revoked may be reinstated at any time during the period for which the license is issued and may be renewed upon an application therefor and the payment of the renewal fee. Compliance with K.S.A. 1980 Supp. 58-3046 is not required for renewal of a license which is deactivated.

(c) No license which is deactivated shall be reinstated without the applicant's compliance with the requirements of K.S.A. 1980 Supp. 58-3046 for the immediately preceding license period and payment of the fee for reinstatement prescribed by K.S.A.

1982 Supp. 58-3063. Any license that has been deactivated for a continuous period of more than two (2) years shall be reinstated only if the licensee has met the examination requirement for an original applicant.

(d) A broker whose license is deactivated need not maintain the place of business required by K.S.A. 1982 Supp. 58-3060.

(e) A licensee whose license is deactivated shall not be entitled to act in any capacity for which a license is required until his or her license has been reinstated.

History: L. 1980, ch. 164, § 16; July 1.

**58-3050. Revocation, suspension or restriction of license; censure of licensee; grounds; complaint.** (a) The license of any licensee may be revoked, suspended or restricted or a licensee may be censured, if:

(1) The commission finds that the license has been obtained by false or fraudulent representation or that the licensee has committed a violation of this act or rules and regulations adopted hereunder;

(2) the licensee has been convicted of a felony or has entered a plea of guilty to a felony charge; or

(3) the licensee has been finally adjudicated and found to be guilty of refusing to show, sell or lease any real estate to a qualified purchaser or lessee because of such purchaser's or lessee's race, color, religion, national origin, sex or ethnic group.

(b) If a broker or salesperson has been declared incompetent by a court of competent jurisdiction, the commission shall suspend the broker's or salesperson's license for the period of disability.

(c) Complaints may be initiated by any aggrieved person, by the director or by any member of the commission and may be upon information and belief. Any member of the commission initiating a complaint shall take no part in the commission's deliberations or vote on the matters stated therein.

(d) The complaint shall be verified and state the charges against a licensee with reasonable definiteness. The licensee may file an answer to the complaint setting forth any defenses that the licensee may have.

(e) The director shall have authority to dismiss any complaint that, in the director's opinion after any necessary investigation, is frivolous or unsubstantiated. The commission, at its next regularly scheduled meeting,

may reinstate any complaint so dismissed upon a vote of two (2) members. Any complaint not so reinstated shall be deemed dismissed with prejudice.

(f) A complaint shall be filed not more than one year after the occurrence complained of or one year after the conclusion of litigation involving the occurrence complained of, whichever is later, or if the charge involves fraud, misrepresentation or a false promise, the complaint shall be filed within one year after the date of discovery by the aggrieved party, except that in no case shall a complaint be filed later than five (5) years from the date of the occurrence which is the subject of the complaint.

History: L. 1980, ch. 164, § 17; July 1.

**58-3051. Informal disposition of complaint by agreement.** (a) The commission, when it has information indicating that a person may be engaging in a practice that may involve a violation of this act or rules and regulations adopted hereunder, and if it deems the public interest will be fully safeguarded thereby, may dispose of such matter by agreement on an informal nonadjudicatory basis.

(b) In determining whether the public interest will be fully safeguarded through such informal administrative action, the commission will consider:

(1) The nature and gravity of the alleged violation;

(2) The prior record and good faith of the person involved; and

(3) Other factors, including, when appropriate, adequate assurance of voluntary compliance.

(c) Every agreement executed pursuant to this section shall provide for full restitution to any injured party and shall contain, in addition to an appropriate order, an admission of proposed findings of fact and conclusions of law submitted by the commission and a waiver of further procedural steps and of all rights to seek judicial review or otherwise to challenge or contest the validity of the order. Such other terms as the commission finds necessary to protect the public interest shall also be included in such agreement.

(d) A violation of any agreement entered into pursuant to this section shall be deemed a violation of this act.

History: L. 1980, ch. 164, § 18; July 1.

**58-3052. Hearing on complaint.** Except as otherwise provided in this act, the commission shall give a licensee a hearing before censuring the licensee or restricting, revoking or suspending the licensee's license. The hearing shall be held within one hundred twenty (120) days after receipt of a complaint, at a time and place prescribed by the commission. At least thirty (30) days prior to the date set for the hearing, the commission shall send notice of the hearing to the licensee by registered mail to the licensee's last known business address. The notice shall contain a statement of the charges against the licensee and the date and place of the hearing. If the licensee is a salesperson or associate broker, the commission shall also notify the broker by whom the salesperson or associate broker is employed or with whom the salesperson or associate broker is associated by mailing a copy of the notice to the broker's last known business address. If the hearing is not held within one hundred twenty (120) days, the complaint shall be deemed dismissed with prejudice unless the matter has been continued by agreement of the licensee and the commission.

History: L. 1980, ch. 164, § 19; July 1.

**58-3053. Same; witnesses; evidence; subpoenas.** (a) The commission shall have the same power to subpoena witnesses and documentary evidence as is granted to the district courts of this state. Subpoenas may be signed and issued in the commission's name by the director. Prior to any hearing before the commission, the respondent may apply to the commission for the issuance of subpoenas, which shall immediately be issued upon receipt of such application.

(b) Any witness subpoenaed shall be entitled to the same fees and mileage as prescribed by law for actions in the courts of this state.

(c) If any witness fails or refuses to obey a subpoena, the commission may apply to the district court of Shawnee county for an order and an attachment for such witness, to be directed to any sheriff of the state of Kansas. Upon such application, the court may issue an order compelling the witness to appear before the commission to testify and answer any questions lawfully propounded to the witness. If a witness fails or refuses to attend a hearing before the com-

mission or to answer any questions, the commission would be required to apply to the court, the court shall have the power to arrest and imprison such person.

(d) Prior to any hearing, the commission may order that the witness be taken to the residence of the witness, if the witness is residing within or without the state, by deposition in the law for depositions.

History: L. 1980, ch. 164, § 20; July 1.

**58-3054. Same; hearing officer.** Unless a hearing officer is appointed by the commission, the chairperson of the commission shall be the hearing officer. If the chairperson is the hearing officer, the chairperson shall preside over the hearing. If the chairperson is not the hearing officer, the chairperson shall be the presiding officer. The hearing officer shall have the power to issue the order of procedure and shall make all rules of procedure and the rules of evidence.

(b) The commission shall have the power to appoint a hearing officer to serve as the hearing officer at any hearing. A hearing officer who is not an attorney licensed in this state shall be appointed by the commission. The hearing officer shall have the power to rule on the admissibility of evidence and to make all rulings on matters of law. The hearing officer shall exercise all other powers and duties of the hearing officer. The hearing officer shall be subject to all of them to the same extent as the commission.

History: L. 1980, ch. 164, § 21; July 1.

**58-3055. Same; failure to appear.** In any matter before the commission, a party who fails to appear shall not be bound by the rules of procedure and the rules of evidence. The hearing officer may be used to support the hearing officer's decision. The hearing officer's decision would be a final decision. Except as otherwise provided in this act, the rules of privilege shall apply to the same extent as in the courts of this state.

(b) All parties shall have the right to be represented by counsel during any hearing. The hearing officer shall be subject to the same extent as the commission.

(c) Oral evidence shall be taken only on oath. The hearing officer shall be given a reasonable opportunity to be heard and to present evidence. The hearing officer shall have the power to examine witnesses, to introduce evidence, to examine opposing witnesses, to examine relevant to the is-





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SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

SB-264, Revisions to Real Estate License Law

The Kansas Association of REALTORS supports the changes proposed by the Kansas Real Estate Commission made to the Real Estate License Law in SB-264. The License Law was completely rewritten in the 1980 session of the Legislature. These are the first major changes made in the law with the exception of the changes made last session to the education requirements.

The first major change in the bill is in lines 90-102. These changes allow the regular employees of a partnership or corporation to sell or lease property owned by these parties so long as the regular employees do not make a vocation of selling or leasing real estate. The Association supports this change as being reasonable. The license law was written to protect the public and give assurances that those they deal with in real estate transactions meet certain standards as set out in the License Law. This change would expand the present law, but would limit it in a way that we believe would not be detrimental to the public. The present law would only exempt those employees who own 5% or more of the stock of a corporation. We urge the committee to adopt the language as proposed.

The second major change is contained in lines 222-233. This change would require an inactive licensee to meet the 8 hour continuing education requirement in order to renew their license and not require the licensee to retake the examination after a two year inactive period. The Association believes that there must be some requirement to ensure that an inactive licensee be capable of returning to the business. We would support the Commission in this regard in that the licensee would continue to take educational courses as would any active licensee.

The next changes are in lines 317-345. These changes would not require every broker to maintain a trust account. There are several instances as outlined in the bill where a broker would not need to maintain a trust account and we support these changes. We also support the change that allows a broker to maintain a trust account in another state with the permission of the Commission. We believe these changes are workable and support them.

The last major change is contained in lines 271-273. This would provide that the commission be given a 10 day notice before a hearing is held to suspend or stay a commission decision. The Association supports this change also.

In summary the Association supports the changes in this bill and asks that the committee adopt the bill as presented.