

Approved 2/6/84
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

11:00 a.m./~~pm~~ on January 31, 1984 in room 254-E of the Capitol.

All members were present ~~except~~ ^{XXXXXX}:

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

Conferees appearing before the committee:

Todd Sherlock, Kansas Association of Realtors, Topeka
Paul Flower, Kansas Real Estate Commission
Jim Turner, Kansas League of Savings Institutions
Jim Maag, Kansas Bankers Association

The Chairman announced that today's meeting was being held for the purpose of hearing from proponents and opponents of:

SB537, concerning real estate brokers' and salespersons' license act; hearing costs; office location; exemption. and

SB538, concerning routine amendments to real estate brokers' and salespersons' license act.

Todd Sherlock, of the Kansas Association of Realtors, appeared first. He spoke as a proponent of both SB537 and SB538, and also to some concerns they have with the proposed legislation. A copy of his prepared statement is a part of these Minutes and marked Attachment #1.

Paul Flower spoke for the Real Estate Commission as a proponent of SB537 as well as SB538. There was some discussion as to the clarification of certain language in the proposed bill.

Jim Turner, for the Savings and Loan League of Kansas, appeared before the Committee with a suggested amendment for SB537, and said that with the acceptance of this proposed amendment (Copy of his testimony is attached to these Minutes and marked Attachment #2) the League would have no opposition to the bill.

Jim Maag, of the Kansas Bankers Association appeared "simply to echo the comments by Mr. Turner."

Senator Pomeroy moved to amend SB537 on page 1, by striking lines 19 to 43, inclusive; and on page 2, by striking lines 44 to 66, inclusive; and that the Revisor's Office do whatever else necessary to make the bill technically correct by renumbering sections. 2d by Senator Morris. Motion carried.

Senator Pomeroy moved to amend SB537 on page 2, in line 76, by striking "charge"; by striking lines 77 to 79 inclusive, and inserting "involving moral turpitude; or". 2d by Senator Daniels. Motion carried.

Senator Pomeroy moved to amend SB537 on page 3, in line 84, by striking "incompetent" and inserting "to be a disabled person"; and that the Revisor's Office correct any other technical inconsistencies in the bill; 2d by Senator Daniels. Motion carried.

The Minutes of the meeting of January 30, 1984, were approved in a motion by Senator Gannon, with a 2d by Senator Pomeroy. Motion carried.

The meeting was adjourned at noon.

1-31-84

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KANSAS ASSOCIATION OF REALTORS

Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/287-3610

Attachment #1

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Mr. Chairman and members of the Committee, my name is Todd Sherlock and I represent the Kansas Association of REALTORS. With respect to Senate Bill 537, our Association is in agreement with most of the proposed language changes. The language in KSA 58-3050 (a) (3) does cause us some concern, even though we will support the provision. This provision allows the commission to revoke, suspend or restrict the license of a licensee should he be convicted of a misdemeanor charge for "acts which demonstrate a danger of physical harm to the public." We feel it could be somewhat difficult to determine what misdemeanor convictions could fall in this category and how equitably such convictions will be applied when reviewing individual licensees.

Senate Bill 537 seeks no changes in the 5 percent employee ownership provisions found in KSA 58-3037 (i) and (j). This bill will help insure that licensed real estate salespersons are employed when dealing with the public on the sale of real property.

In short, Senate Bill 537 is acceptable to us and we encourage your support of the bill.

Senate Bill 538 which addresses other provisions of the Kansas Real Estate Brokers' and Salespersons' License Act, is also acceptable to the Kansas Association of REALTORS. Although we do not expect to see any changes made at this time, we would ultimately like to see KSA 58-2062 (a) (31) revised. Presently, the law reads that a licensee shall be responsible for failing to disclose any "material information" about a property to a buyer which the licensee knew or should have known about. The "should have known about" language is

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ATTACHMENT # 1 1/31/84

vague and difficult to determine. Also, the provisions of this Act could presumably be used against a licensee in a civil lawsuit, adding yet another element of liability in addition to the established Kansas common law rules of nondisclosure.

With these exceptions noted, the Kansas Association of REALTORS support Senate Bills 537 and 538.

KLSI Kansas
League of
Savings
Institutions

1-31-84

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

January 31, 1984

TO: SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
FROM: JIM TURNER - KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: S.B. 537 (Real Estate License Act)

The Kansas League of Savings Institutions appreciates the opportunity to appear on S.B. 537. This bill amends several sections of the real estate brokers' and salespersons' license act (K.S.A. 58-3035 et seq). We are very concerned with section one of the proposal which amends the exemption section of the license act.

The exemption from the license requirements in K.S.A. 58-3037(a) presently apply to, "Any person who directly performs any of the acts within the scope of this act with reference to such person's own property." The term "person" includes corporations and partnerships. This exemption allows savings associations to sell real estate acquired through foreclosure or default without being licensed as a real estate broker or salesperson.

The bill would restrict this exemption to individuals. We do not believe it is the intent of the license act to require savings association to sell real estate owned by the association through a licensed real estate broker. We see no problems with the present exemption that mandates a change in the law.

We ask the committee to leave the present exemption in K.S.A. 58-3037 in place and to strike the word "individual" as it appears on lines 0021 and 0023 of S.B. 537. We thank you for your consideration of this matter.

J.T.

JRT:bw

ATTACHMENT #2 1/31/84