

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS

The meeting was called to order by Senator Dan Thiessen at
Chairperson

1:30 ~~xxx~~/p.m. on Monday, February 18, 1985 in room 529-S of the Capitol.

All members were present except:
Senator Jack Steineger (excused)

Committee staff present:
Jerry Ann Donaldson, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:
Karen McClain, Kansas Association of Realtors
Stan Metzger, Stan Metzger and Company Realtors
Sandy Kirk, Stan Metzger and Company Realtors
George McCullough, Kansas AFL-CIO
Senator August Bogina
Jim Mayer, Kansas Association of Realtors

The Chairman called the meeting to order.

Senator Bogina reviewed SBl76, and stated the bill provides another exemption, for qualified real estate agents, using the same language in the existing law, and asked if there were any questions of the committee, having no questions, he requested the committee to give favorable consideration to the bill.

Karen McClain stated SBl76 would allow a statutory exemption of qualified real estate persons into the current workmens' compensation statutes. Currently independent contractors are not considered employees, and are not covered under workers' compensation statutes, and this creates a problem with insurance companies, to threaten broker-owners to either carry workers' compensation insurance on their salespersons or the company will drop the workers' compensation policies by the broker for other employees, such as employees in their offices.

Karen asked the committee members to give favorable consideration to the exemption for qualified real estate persons to be inserted in K.S.A. 44-505. (See Attachment A)

Chairman Thiessen asked if there were any questions by the committee?

Jim Mayer stated that the Kansas Association of Realtors are facing problems with workers' compensation, and reviewed testimony from Todd Sherlock, with the Kansas Association of Realtors to the Interim Committee on Labor and Industry. (See Attachment B) Mr. Mayer asked that the committee members hold questions until after input from Sandy Kirk and Stan Metzger.

Stan Metzger stated he had been in the Real Estate business for 18 years, and 15 years of that time as a Broker, and he stated that the main problem, is misunderstanding, relating to Insurance Carriers. He stated, he has independent contractors working in his Real Estate Business, and he is still paying workers' compensation insurance on them, and Insurance Carriers do not want to sell him insurance on Independent Contractors, and he feels this is conflict of interest. He stated, the United States Government recognizes independent contractors, and the Kansas Department of Revenue recognizes Independent Contractors, so he feels Brokers should be exempt from paying Workers' Compensation Insurance on Independent Constructors.

Chairman Thiessen Do most Brokers pay the taxes to Workers' Compensation?

Mr. Metzger: Yes, most do because of fear insurance companies won't sell them insurance if they don't have Workers' Compensation.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 529-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, February 18, 1985.

Senator Ehrlich: Have there been any questions from the Internal Revenue Service in paying Workmans' Compensation?

Mr. Metzger: Brokers in sitting up, you may operate as Employee/Employer then you have to withhold Social Security.

Senator Werts: If a salesman, would his general liability cover him?

Mr. Metzger: I hope so, but common law, not Workers' Compensation. Its an agents right to recover for pain and liability.

Senator Morris: How far does liability go? If your showing a home as an Independent Contractor, and beaten, is this covered under Workers' Compensation or do they have to prove coverage with the Broker?

Mr. Metzger: I don't think so. Independent Contractors are already excluded.

Chairman Thiessen: Are secretaries excluded, and are there objections to carry this liability or not?

Mr. Metzger: Elective law, they already have right to be Independent Contractors.

Sandy Kirk: I work with the Stan Metzger Realty Association, and I am also working as an Independent Contractor with the firm. I like being an Independent Contractor, because I can set my own hours, am my own boss, have time with my children and husband. I have flexibility in what I earn on commission basis. I still attend sales meetings, work floor time in the office, and my responsibility is to myself. I have no pre-determined sales volume I have to meet, in order to stay as an Independent Contractor with the firm. I sell what I feel, I need to sell, and earn what I want to earn. An employee does not work this way, and does not have the flexibility. I do have to hold back taxes, as this is totally my responsibility.

George McCullough-AFL-CIO: We are opposed to further coding of employees. Workers' Compensation does not cover Independent Contractors, but does cover other employees working for Brokers.

Stan Metzger: If an Independent Contractor should slip and fall and become a paraplegia, are they not covered under Workers' Compensation? What they said, Insurance Carriers, this act only applies to Independent Contractors. Contractual operation, has to be employee.

Jim Mayer: Seems as though our focus to contractual, changes who would have to have proof.

Senator Feleciano: Burden of proof, is on who, and does the claimant have to prove if employee or Independent Contractor, and how does this change if law is changed, what is the difference in the bill now? Should we, Mr. Chairman have someone from the Insurance Commissioners office come to a meeting, as it seems to me on contractual obligations, complaints are being laid on the wrong people.

Senator Morris: Do you think there is enough control to call them employees or Independent Contractors?

Jim Mayer: They are more type of employee.

Senator Gordon: What percent are Independent Contractors and what percent are not?

Jim Mayer: About 5% are Independent Contractors.

A motion was made by Senator Francis Gordon and seconded by Senator Joseph Norvell to approve the minutes of January 28, 1985. Motion carried.

Meeting was adjourned at 2:25 p.m. by the Chairman.

TESTIMONY BEFORE
THE SENATE LABOR, INDUSTRY, AND SMALL BUSINESS COMMITTEE

KAREN MCCLAIN

THE KANSAS ASSOCIATION OF REALTORS®

FEBRUARY 18, 1985

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, I AM KAREN MCCLAIN, DIRECTOR OF THE KANSAS ASSOCIATION OF REALTORS®. I AM HERE TODAY TO ASK YOU TO PASS SB 176 OUT OF THIS COMMITTEE FAVORABLY.

WHAT THIS BILL PROPOSES TO DO IS QUITE SIMPLE. THE BILL WOULD INSERT A STATUTORY EXEMPTION OF QUALIFIED REAL ESTATE PERSONS INTO THE CURRENT WORKMEN'S COMPENSATION STATUTES. A QUALIFIED REAL ESTATE PERSON IS DEFINED IN THE BILL, ROUGHLY AS ONE WHO IS LICENSED TO SELL REAL ESTATE, IS PAID WITH A COMMISSION RATHER THAN A SALARY OR WAGE BASIS, AND THE RELATIONSHIP BETWEEN THE BROKER AND SALESPERSON IS DECLARED BY A WRITTEN CONTRACT, SIGNED BY BOTH BROKER AND SALESPERSON, TO BE ONE OF INDEPENDENT CONTRACTOR.

THE WORKMEN'S COMPENSATION STATUTES APPLY WHERE THERE IS AN EMPLOYER-EMPLOYEE RELATIONSHIP. K.S.A. 44-501 STATES "IF IN ANY EMPLOYMENT TO WHICH THE WORKMEN'S COMPENSATION ACT APPLIES, PERSONAL INJURY BY ACCIDENT ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT IS CAUSED TO AN EMPLOYEE, HIS OR HER EMPLOYER SHALL BE LIABLE TO PAY COMPENSATION TO THE EMPLOYEE IN ACCORDANCE WITH THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT."

THE WORKMEN'S COMPENSATION STATUTES DO NOT APPLY WHERE AN INDEPENDENT CONTRACTOR IS INVOLVED. K.S.A. 44-508 (b) STATES, IN PART, "WORKMAN" OR "EMPLOYEE" OR "WORKER" MEANS ANY PERSON WHO HAS ENTERED INTO THE EMPLOYMENT OF OR WORKS UNDER ANY CONTRACT OF SERVICE OR APPRENTICESHIP WITH AN EMPLOYER..." THERE IS NO LANGUAGE IN THE STATUTE WHICH DEFINES "EMPLOYMENT" OR "CONTRACT FOR SERVICE".

IT IS A LONG TRADITION IN THE LAW THAT A PERSON WHO IS HIRED AS AN INDEPENDENT CONTRACTOR IS NOT CONSIDERED AN EMPLOYEE, BUT SOMEONE WHO IS HIRED TO PERFORM A FUNCTION IN AN INDEPENDENTLY ESTABLISHED OCCUPATION. WE SUGGEST TO YOU THAT A QUALIFIED REAL ESTATE AGENT, AS DEFINED IN THIS BILL, IS AN INDEPENDENT CONTRACTOR BY THE VERY NATURE OF THE RELATIONSHIP BETWEEN THE BROKER AND THE SALESPERSON.

WE HAVE ASKED THAT QUALIFIED REAL ESTATE AGENTS BE SPECIFICALLY EXEMPTED OUT OF THE WORKMEN'S COMPENSATION STATUTES BECAUSE THERE HAVE BEEN PROBLEMS IN INTERPRETING THE STATUTE AND ITS APPLICATION AS IT NOW EXISTS. IT HAS BECOME A COMMON OCCURENCE FOR INSURANCE COMPANIES TO THREATEN BROKER-OWNERS TO EITHER CARRY WORKER'S COMPENSATION INSURANCE ON THEIR SALESPERSONS OR THE COMPANY WILL DROP THE WORKER'S COMPENSATION POLICIES HELD BY THE BROKER FOR THE CLERICAL EMPLOYEES IN THEIR OFFICE.

ON THE FACE OF THE STATUTE, WE FEEL THAT REAL ESTATE SALESPERSONS ARE NOT EMPLOYEES IN THE MEANING OF THE STATUTE AND THUS THE WORKMEN'S COMPENSATION STATUTE DOES NOT APPLY. HOWEVER, IN LIGHT OF THE PROBLEMS IN INTERPRETATION MENTIONED ABOVE IT SEEMS SOME CLARIFICATION MUST BE MADE. AND SO WE HAVE REQUESTED THAT THE SPECIFIC EXEMPTION FOR QUALIFIED REAL ESTATE PERSONS BE INSERTED IN K.S.A. 44-505.

THE MOST RECENT KANSAS SUPREME COURT CASE, KIRBY VACUUM CLEANERS V. SECRETARY OF KANSAS DEPARTMENT OF HUMAN RESOURCES, DISCUSSED IN GREAT DETAIL WHAT STANDARDS THE COURTS USE TO DETERMINE WHETHER AN INDEPENDENT CONTRACTOR RELATIONSHIP EXISTS. THE COURT STATED, " AN INDEPENDENT CONTRACTOR IS GENERALLY DESCRIBED AS ONE WHO, IN EXERCISING AN INDEPENDENT EMPLOYMENT, CONTRACTS TO DO CERTAIN WORK ACCORDING TO HIS OWN METHODS, WITHOUT BEING SUBJECT TO THE CONTROL OF HIS EMPLOYER, EXCEPT AS TO THE RESULTS OR PRODUCT OF HIS WORK. . . THE

PRIMARY TEST USED BY THE COURTS IN DETERMINING WHETHER THE EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS IS WHETHER THE EMPLOYER HAS THE RIGHT OF CONTROL AND SUPERVISION OVER THE WORK OF THE ALLEGED EMPLOYEE, AND THE RIGHT TO DIRECT THE MANNER IN WHICH THE WORK IS TO BE PERFORMED, AS WELL AS THE RESULT WHICH IS TO BE ACCOMPLISHED. IT IS NOT THE ACTUAL INTERFERENCE OR EXERCISE OF THE CONTROL BY THE EMPLOYER, BUT THE EXISTENCE OF THE RIGHT OR AUTHORITY TO INTERFERE OR CONTROL, WHICH RENDERS ONE A SERVANT RATHER THAN AN INDEPENDENT CONTRACTOR."

ACCORDING TO THIS LANGUAGE A REAL ESTATE SALESPERSON IS AN INDEPENDENT CONTRACTOR RATHER THAN AN EMPLOYEE. A REAL ESTATE SALESPERSON CONTRACTS TO DO CERTAIN WORK FOR A BROKER, NAMELY, LISTING AND SELLING REAL ESTATE FOR THE BROKER. THE SALESPERSON DETERMINES HOW AND WHEN THEY WILL SELL AND/OR LIST THE PROPERTY. THE SALESPERSON DECIDES WHICH HOURS THEY WILL WORK DURING ANY GIVEN DAY OR WEEK. THE BROKER CANNOT TELL THE SALESPERSON HOW OR WHEN TO DO THE WORK, EXCEPT FOR INSURING THAT THE SALESPERSON MEETS THE OBLIGATIONS IMPOSED BY LAW, AND WHICH THE LAW MAKES THE BROKER LEGALLY RESPONSIBLE FOR. NOR CAN THE BROKER TELL A SALESPERSON WHEN THE SALESPERSON SHOULD BE IN THE OFFICE TAKING BOARD TIME OR WHEN TO BE PRESENT FOR SALES MEETINGS. A SALESPERSON CAN DO THESE THINGS OUT OF THEIR OWN CHOICE. IF THEY CHOOSE NOT TO, THEY CAN NOT BE FIRED FOR DOING SO. THE BROKER OFTENTIMES HAS OFFICES AVAILABLE FOR THE USE OF THE SALESPERSON, HOWEVER, AS SANDY KIRK, A SALESPERSON WILL TELL YOU, A SALESPERSON CAN WORK ENTIRELY OUT OF THEIR HOME IF THEY SO DESIRE, AND NEVER SHOW UP AT THE OFFICE. IN ADDITION, IF THEY DO USE OFFICE SPACE AT THE COMPANY OFFICE, THE COST OF THE USE OF OFFICE AND ANY OFFICE SUPPLIES ARE TAKEN INTO CONSIDERATION AT THE TIME THE COMMISSION IS NEGOTIATED BY THE BROKER AND THE SALESPERSON. IN OTHER WORDS, IF A SALESPERSON IS GOING TO USE THE OFFICE AND THE SUPPLIES OR CLERICAL HELP, THE PERCENT OF THE COMMISSION WHICH THE SALESPERSON RECEIVES IS REDUCED BY A PROPORTIONATE AMOUNT TO COVER THE BROKER'S COST OF PROVIDING THOSE SERVICES.

I HAVE INCLUDED A COPY OF A MODEL CONTRACT WHICH THE BROKER AND SALESPERSON BOTH SIGN AND WHICH LAYS OUT THE RIGHTS AND DUTIES OF EACH PARTY TO THE CONTRACT. THIS CONTRACT CLEARLY DEMONSTRATES THAT THE NATURE OF THIS RELATIONSHIP IS ONE OF CONTRACTOR AND INDEPENDENT CONTRACTOR, RATHER THAN EMPLOYER, EMPLOYEE. PARAGRAPH 10 ON THE BACK OF THE CONTRACT EXPLICITLY DEFINES THE RELATIONSHIP AND A DEFINITION SUCH AS THIS DESCRIBES WHAT THE COURTS HAVE DECLARED OVER THE YEARS TO BE, AN INDEPENDENT CONTRACTOR SITUATION, NOT AN EMPLOYER-EMPLOYEE RELATIONSHIP.

IN ORDER TO GIVE YOU FURTHER GUIDANCE, IN 1982 THE UNITED STATES CONGRESS PASSED THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT (TEFRA). THAT ACT ADDRESSED THE QUESTION OF FEDERAL INCOME TAX WITHHOLDING, AND PROVIDED THAT FOR PURPOSES OF INCOME TAX WITHHOLDING, WHERE A QUALIFIED REAL ESTATE AGENT IS INVOLVED, THE INDIVIDUAL PERFORMING SUCH SERVICES SHALL NOT BE TREATED AS AN EMPLOYEE, AND THE PERSON FOR WHOM SUCH SERVICES ARE PERFORMED SHALL NOT BE TREATED AS AN EMPLOYER. THE SAME DEFINITION OF "QUALIFIED REAL ESTATE AGENT" WAS USED IN THAT STATUTE AS WHAT WE HAVE PROPOSED HERE. THUS THE FEDERAL GOVERNMENT HAS RECOGNIZED THAT THE REAL ESTATE SALESPERSON AND REAL ESTATE BROKER RELATIONSHIP IS NOT AN EMPLOYER, EMPLOYEE RELATIONSHIP.

IN ADDITION, THE 1984 KANSAS LEGISLATURE AMENDED K.S.A. 44-703 AND SPECIFICALLY EXEMPTED QUALIFIED REAL ESTATE PERSONS FROM THE MEANING OF THE TERM "EMPLOYMENT", IN RECOGNITION OF THE INDEPENDENT CONTRACTOR STATUS INVOLVED IN THE BROKER-SALESPERSON RELATIONSHIP.

THIRTEEN STATES HAVE EXPLICITLY EXEMPTED REAL ESTATE LICENSEES FROM WORKER'S COMPENSATION, FIVE OF WHICH HAVE UTILIZED THE SAME LANGUAGE USED IN THE TEFRA LEGISLATION.

IN LIGHT OF THE PROBLEM WHICH I HAVE PRESENTED, AND IN LIGHT OF THE LONG RECOGNITION OF THE COURTS OF THE DIFFERENCE BETWEEN THE INDEPENDENT CONTRACTOR AND THE EMPLOYEE, AND THE FACT THAT QUALIFIED REAL ESTATE SALESPERSONS ARE INDEPENDENT CONTRACTORS, NOT EMPLOYEES, I ASK THAT YOU PASS THIS BILL OUT FAVORABLY.

I CAN ANSWER QUESTIONS NOW, HOWEVER, I MIGHT SUGGEST THAT YOU WAIT UNTIL THE TWO OTHER CONFEREES, STAN METZGER, OWNER OF STAN METZGER REALTORS®, AND SANDY KIRK, A SALESPERSON IN STAN METZGER'S OFFICE, HAVE FINISHED SPEAKING. I THINK THEY MIGHT ANSWER IN THEIR TESTIMONY SOME OF THE QUESTIONS YOU MIGHT HAVE. ALSO, JIM MAYER, THE EXECUTIVE VICE-PRESIDENT FOR THE KANSAS ASSOCIATION OF REALTORS® IS AVAILABLE FOR QUESTIONS BUT WILL NOT BE TESTIFYING.

THANK YOU.

INDEPENDENT CONTRACTOR AGREEMENT

AGREEMENT entered into this _____ day of _____, 198_____, by and between _____ ("BROKER") and _____ ("SALESPERSON").

RECITALS

BROKER is engaged in business as a general real estate broker in _____, State of Kansas, among other places, and is qualified to and does operate a general real estate business and is duly qualified to and does procure the listings of real estate for sale, lease or rental, and prospective purchasers, lessees and renters thereof and has and does enjoy the good will of, and a reputation for fair dealing with the public; and

BROKER maintains an office in _____, State of Kansas properly equipped with furnishings and other equipment necessary and incidental to the proper operation of its business, and staffed with individuals capable of serving the public as a real estate broker; and

SALESPERSON is engaged in business as a licensed real estate salesperson and has enjoyed and does enjoy a reputation for fair and honest dealing with the public as such; and

It is deemed to be the mutual advantage of BROKER and SALESPERSON to form the association as set forth in this agreement.

IT IS AGREED:

1. Listings and Cooperation—BROKER shall make available to SALESPERSON all current listings of the office, except such as BROKER for valid and usual business reasons may place exclusively in the temporary possession of some other salesperson. BROKER may, upon request, assist SALESPERSON in his or her work by advice and instruction. BROKER shall provide to SALESPERSON full cooperation in every way possible. Nothing herein shall be construed to require that SALESPERSON accept or service any particular listing or prospective listing offered by BROKER; nor shall BROKER have any right or authority to direct that SALESPERSON see or service particular parties, or restrict SALESPERSON'S activities to particular areas. BROKER SHALL have no right, except to the extent required by law, to direct or limit SALESPERSON'S activities as to hours, leads, open houses, opportunity or floor time, production, prospects, reports, sales, sales meetings, schedules, services, inventory, time off, training, vacation, or other similar activities.

2. Use of Facilities—SALESPERSON may share with other salespeople all the facilities of the office now operated by BROKER at _____ (address), in _____ (city), Kansas in carrying out this agreement.

3. Efforts by Salesperson—SALESPERSON shall work diligently and with his or her best efforts to sell, lease or rent any and all real estate listed with BROKER, to solicit additional listings and customers for BROKER, and otherwise promote the business of serving the public in real estate transactions to the end that each of the parties to this agreement may derive the greatest profit possible. BROKER agrees that thereby BROKER obtains no authority or right to direct or control SALESPERSON'S activities, except as may be required by the statute of the State of Kansas and the rules and regulations of the Kansas Real Estate Commission, and SALESPERSON assumes and retains discretion for methods, techniques and procedures in soliciting and obtaining listings and sales, rentals, or leases of listed property.

4. Conduct of Business—SALESPERSON shall conduct his or her business in such a manner so as to maintain and to increase the good will and reputation of BROKER and SALESPERSON and shall conform to and shall abide by all laws, rules and regulations and codes of ethics that are binding upon or applicable to real estate brokers and real estate salespeople.

5. Compensation of Salespersons—The compensation of the SALESPERSON shall be based upon a proportionate share of the commissions charged by the BROKER for services rendered in real estate transactions in which the salesperson may be involved. When SALESPERSON shall perform any service pursuant to this agreement, whereby a commission is earned, the commission shall, when collected, be divided between BROKER and SALESPERSON pursuant to the schedule set out in Exhibit A, a copy of which is attached hereto and incorporated herein by this reference, and which SALESPERSON acknowledges he or she has received. BROKER shall advise SALESPERSON of any special contract relating to any particular transaction which SALESPERSON may undertake to handle in

INDEPENDENT CONTRACTOR AGREEMENT

EXHIBIT A

This exhibit shall become a part of the Agreement between _____, Broker and _____, Salesperson, dated _____, 19____. If revised, a revision date shall be shown on the revised copy and copies shall be given to both Broker and Salesperson.

IT IS AGREED:

1. Listing commissions shall be divided as follows:

Salesperson _____ %
Broker _____ %

2. Sales commissions shall be divided as follows:

Salesperson _____ %
Broker _____ %

3. Rental and/or leasing commissions shall be divided as follows:

Salesperson _____ %
Broker _____ %

REVISED: _____



Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/267-3610

INTERIM COMMITTEE ON LABOR AND INDUSTRY

Mr. Chairman and members of the committee, my name is Todd Sherlock and I represent the Kansas Association of Realtors®. We come before you today to ask you to help us with some workers' compensation problems that we are facing.

Last session, the legislature passed and the Governor signed a version of Senate Bill 721, which made certain changes in the way the state's unemployment compensation laws are handled. One change outlined in that bill allowed real estate brokers to be exempt from paying unemployment compensation taxes based on the number of independent contractor salespeople that list with the broker. The reason for the passage of this legislation was simple. Realtors® all across the state were confused about the unemployment compensation law. Most real estate salespeople meet the necessary tests for independent contractor status. However, brokers were still being assessed unemployment compensation taxes for the independent contractor salespeople.

We ask this committee to align the workers' compensation laws of this state with that of the unemployment compensation laws as they apply to real estate salespeople. We strongly feel that real estate brokers should not be in the position to pay for workers' compensation insurance for a salesperson that, for most instances under the law, is considered an independent contractor.

In 1982, Congress passed the Tax and Fiscal Responsibility Act. In that act, Congress outlined three steps, or tests, for determining if a real estate salesperson is an independent contractor. If the salesperson met these tests, then the employing broker was not required to withhold federal taxes or social security payments from the salesperson's commission checks.

2-18-85
(Attachment B)

Since 1982, states all over the country have asked their legislatures to "conform" to the federal law and recognize the real estate salesperson as an independent contractor for state taxation and insurance purposes. We feel that it makes little sense to call our salespeople "independent" and allow them to be independent in every sense of the word, and yet find various niches in the law where our independent stature is non-existent.

A simple way to correct the confusing issue of who is and who is not an independent contractor would be to adopt Congress' standard found in the 1982 Tax and Fiscal Responsibility Act. There, for federal taxation purposes, a real estate salesperson is considered independent if 1.) the salesperson is licensed, 2.) substantially all of the salesperson's remuneration for services performed as a real estate agent are related to sales and not to number of hours worked and 3.) a written agreement must exist between the employing broker and salesperson explaining this situation.

This same three point standard was adopted by this legislature last year for state taxation purposes. Now, to be sure that salespeople and brokers are receiving uniform treatment under the law, we ask this committee to study this proposal and recommend to the full legislature that the 1985 session would be a good opportunity to erase the inequities of the workers' compensation law as it applies to the real estate profession.