

Approved Ivan Sand Date 2/27/86

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at  
Chairperson

1:30 ~~am~~ p.m. on FEBRUARY 26, 1986 in room 521-S of the Capitol.

All members were present except: Rep. Phil Kline, excused  
Rep. Elizabeth Baker, excused  
Rep. Patricia Weaver, excused

Committee staff present: Mike Heim, Legislative Research Department  
Mary Hack, Revisor of Statutes Office  
Gloria M. Leonhard, Committee Secretary

Conferees appearing before the committee:  
Rep. Anthony Hensley, HB 2949  
Mr. Jim Turner, Kansas League of Savings Institutions, HB 2949  
Ms. Karen McLain, Assn. of Realtors, HB 2949  
Rep. Duane Goossen, HB 2955  
Mr. Bob Bethel, HB 2955

Chairman Sand read "Excerpts from the Nebraska Funeral Directors Association Newsletter," dated January, 1986. (See Attachment I.)

Chairman Sand called for hearings on the following bills:

HB 2949, concerning the establishment of housing trust funds;

Rep. Anthony Hensley, sponsor of the bill, gave background and intent of HB 2949.

Ms. Mary Hack, Staff, asked if the money is held for the consumer by the financial institution. Rep. Hensley affirmed.

A committee member said the issue needs more work and study.

Mr. Jim Turner, representing Kansas League of Savings Institutions, said his League is not opposing HB 2949 but that it is a very confusing bill. Mr. Turner requested two amendments to clarify the bill. (See Attachment II.)

Ms. Karen McLain, Association of Realtors, said that realtors cannot keep money unless it is agreed upon by both buyer and seller.

The hearing on HB 2949 was closed.

HB 2955, concerning homes for the aged;

Rep. Duane Goossen, gave background and intent of HB 2955 and urged the committee to support the bill.

Mr. Bob Bethel, Administrator for Peabody Nursing Home, appeared in support of HB 2955 and proposed an amendment to Line 133 of the bill. (See Attachment III and Attachment IV.)

Rep. George Dean made a motion that HB 2955 be amended. Rep. Clinton Acheson seconded the motion. The motion to amend carried.

Rep. Dorothy Nichols made a motion that HB 2955 be passed as amended. Rep. Clinton Acheson seconded the motion. The motion carried.

The minutes of the meeting of February 20, 1986, were approved as presented.

The meeting adjourned. Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.



EXCERPTS FROM  
NEBRASKA FUNERAL DIRECTORS ASSOCIATION  
NEWSLETTER

January, 1986

The joint Funeral Director/Cemetery pre-need legislation...passed its first of three hurdles in the legislature on Wednesday, January 22nd.

The bill is the first time in history of the U.S., according to cemetery officials, that both funeral directors and cemeterians have cooperated in consumer legislation...

You will recall that two years ago funeral directors introduced a bill that would require 100% escrow straight across the board. At the same time cemeterians introduced a bill that would eliminate completely cemetery operations from any escrow provisions at all. Each group successfully killed the others bill and as a result, the legislature made it clear in no uncertain terms that both groups should get together and work out their differences and not try to make the legislature a referee in a jurisdictional dispute. This also contained a rather strong mandate that nothing was to be brought back to the legislature until this had been achieved.

6P022460K9

ATTACHMENT I  
2/26/86  
Hts. Local Gov.

# **KLSI** Kansas League of Savings Institutions

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

February 26, 1986

TO: HOUSE COMMITTEE ON LOCAL GOVERNMENT  
FROM: JIM TURNER  
RE: H.B. 2949 (HOUSING TRUST FUNDS)

The Kansas League of Savings Institutions appreciates the opportunity to appear before the House Committee on Local Government to request amendments to H.B. 2949 so as to clarify that the proposed housing trust funds would apply specifically to K.S.A. 58-3061.

We would respectfully request that the following amendments be made to H.B. 2949:

1. On line 20 by deleting the word "escrow"
2. On lines 30, 32-33, and 37 by deleting the words "escrow and other."

These amendments would clarify the application of the bill to K.S.A. 58-3061.

James R. Turner  
President

JRT:bw

ATTACHMENT II  
2/27/86  
Hs. Local Gov.

upon receipt of a petition for...  
director shall promptly certify...  
such court a correct and full...  
of the commission in con...  
order, including a transcrip...  
available, a copy of the...  
findings of fact and conclusio...  
of the commission's order...  
filed in the matter.

The commission shall be de...  
to any such review proced...  
its answer in accordance...  
civil procedure after servic...  
review upon the directo...  
any appeal under this sect...  
consider the matter de...  
The court, on its own...  
additional evidence to b...  
In addition, any party...  
offer additional evidence...  
such party has served...  
written notice of the offer...  
not less than twenty (20)...  
hearing. Such notice...  
of the evidence to be...  
names of witnesses to be...  
parties to the appeal may...  
advance notice, evidence...  
additional evidence. If th...  
the commission's order...  
, unreasonable or unsta...  
ence, it may vacate or...  
r may remand the matter...  
for further proceedings...  
r party may appeal fro...  
gment of the district cou...  
with the rules governin...  
district courts in civil ca...  
L. 1980, ch. 164, § 25.

Same; stay or suspension...  
order. (a) The filing of...  
petition for review shall...  
suspend the operation...  
commission, but, durin...  
proceeding, the court...  
stay or suspend such...  
part.

order of the court stay...  
a order of the comm...  
upon a specific find...  
the evidence present...  
arable damage wou...  
r in the absence of...  
No stay or suspensio...  
l the petitioner has...

and with sufficient surety to be approved...  
the court in such reasonable sum as the...  
may deem necessary to adequately...  
the interests of the public.  
History: L. 1980, ch. 164, § 26; July 1.

**58-3060. Broker's office, require-**  
Every licensed resident broker shall...  
and maintain a principal place of bus-...  
in the state of Kansas, which shall...  
as such broker's primary office for the...  
of business. Such office shall be...  
place at which the broker's license and...  
of salespersons and associate brokers...  
employed by or associated with the broker...  
displayed. A broker shall give written...  
to the director of any change in loca-...  
of any office of the broker.  
History: L. 1980, ch. 164, § 27; July 1.

**58-3061. Trust accounts; require-**  
(a) Each broker shall maintain, in the...  
his name or the broker's firm name, a...  
separate trust account in this state desig-...  
as such, in which all down payments, ...  
money deposits, advance listing...  
or other trust funds received in a real...  
transaction by the broker or by the...  
broker's associate brokers or salespersons...  
on behalf of a principal or any other person...  
shall be deposited or invested unless all...  
having an interest in the funds have...  
agreed otherwise in writing. The account...  
shall be with an insured bank or savings and...  
loan association or credit union which is...  
insured with an insurer or guarantee corpo-...  
ration as required under K.S.A. 17-2246, and...  
provisions thereto.

(b) Each broker shall notify the com-...  
mission of the name of the bank, credit...  
union or savings and loan association in...  
which the trust account is maintained and of...  
the account name.

(c) Each broker shall grant full access to...  
records pertaining to the broker's trust...  
account to the commission and its duly au-...  
thorized representatives. A trust account...  
inspection shall be made at such time as...  
the commission may direct.

(d) A broker may maintain more than...  
one trust account if the commission is ad-...  
vised of each such account as required in...  
subsection (b) of this section and authorized...  
to examine all such accounts in accordance...  
with subsection (c) of this section.

(e) If a broker maintains a separate trust

account for any office, the broker shall...  
maintain a separate bookkeeping system in...  
such office.

(f) A broker shall not be entitled to any...  
part of the earnest money or other money...  
paid to the broker in connection with any...  
real estate transaction as part or all of the...  
broker's commission or fee until the trans-...  
action has been consummated or terminated...  
unless otherwise agreed in writing by all...  
parties to the transaction.

(g) A broker shall make available, for...  
inspection by the commission and its duly...  
authorized representatives, all records re-...  
lating to the broker's real estate business...  
Such records shall be kept in a form and for...  
a term prescribed by the commission. Any...  
inspection shall be made at such time as the...  
commission may direct.

History: L. 1980, ch. 164, § 28; L. 1983,  
ch. 76, § 7; July 1.

**58-3062. Prohibited acts.** (a) No li-...  
censee shall:

(1) Intentionally use advertising that is...  
misleading or inaccurate in any material...  
particular or that in any way misrepresen...  
ts any property, terms, values, policies or...  
services of the business conducted, or uses...  
the trade name, collective membership mark...  
service mark or logo of any organization...  
owning such name, mark or logo without...  
being authorized to do so.

(2) Fail to account for and remit any...  
money which comes into the licensee's...  
possession and which belongs to others.

(3) Commingle the money or other...  
property of the licensee's principals with...  
the licensee's own money or property, ex-...  
cept that nothing herein shall prohibit a...  
licensee from depositing in a trust account...  
a sum not to exceed one hundred dollars...  
(\$100) to pay expenses for the use and...  
maintenance of such account.

(4) Accept, give or charge any rebate or...  
undisclosed commission.

(5) Represent or attempt to represent a...  
broker without the broker's express knowl-...  
edge and consent.

(6) Act in a dual capacity of agent and...  
undisclosed principal in any transaction.

(7) Guarantee or authorize any person to...  
guarantee future profits that may result...  
from the resale of real property.

(8) Place a sign on any property offering...  
it for sale or lease without the written con-

**PEABODY MEMORIAL NURSING HOME, INC.**

407 NORTH LOCUST

PEABODY, KANSAS -- 66866

February 26, 1986

Local Government Committee  
House of Representatives  
State of Kansas

Committee members and Chairman Sand, my name is Bob Bethell, I am the administrator of the Peabody Memorial Nursing Home in Peabody, Kansas.

I come in support of House Bill No. 2955 initiated by Representative Goossen.

The purpose of this bill is to amend existing statutes making it possible to clearly define the ownership of the Peabody Memorial Nursing Home.

This Adult Care Home was created by a bequest from Mrs. Lehlia Woods of Peabody at her death to the City of Peabody. The City of Peabody, proceeded to construct, equip, and staff the home. The original construction took place in 1962-1963. The City of Peabody in accordance with K.S.A. 12-1615 appoints the members of the Board of Directors.

The problem which we now have stems from action taken by this appointed board in 1968. The action was to incorporate, as a non-profit organization. This action was taken because of a concern regarding the liability of the individual members of the board whether real or assumed.

At the time of the incorporation the assets of the home were given over to the corporation and no legal indication of ownership lies with the City of Peabody. It is this cloud on the ownership we wish to have removed. The amendments proposed by House Bill No. 2955 will allow any doubt concerning ownership to be dispelled.

ATTACHMENT III

2/26/86

Hs. Local Gov.

0120 Sec. 6. K.S.A. 12-4906 is hereby amended to read as follows:  
 0121 12-4906. The governing body of any city which has established  
 0122 *or acquired* a home for the aged under the authority of this act is  
 0123 hereby authorized to make an annual tax levy for the mainte-  
 0124 nance and repair of ~~said the~~ home and to pay a portion of the  
 0125 principal and interest on bonds issued by such city under the  
 0126 authority of K.S.A. 12-1774, and amendments thereto.

0127 Sec. 7. K.S.A. 12-4907 is hereby amended to read as follows:  
 0128 12-4907. All moneys received from the sale of the revenue bonds  
 0129 herein authorized, together with all moneys received by dona-  
 0130 tion, gift, bequest or otherwise, shall be placed by the city in a  
 0131 special fund which shall be known as the "home for the aged  
 0132 fund" ~~and said the~~ fund may be used for the purpose of es-  
 0133 tablishing *or acquiring* a home for the aged ~~as in this act pro-~~  
 0134 vided. Whenever sufficient moneys are available in ~~said the~~  
 0135 fund, the governing body of ~~said the~~ city may proceed to acquire  
 0136 the site by gift or purchase and let the contract for such building  
 0137 or buildings and the equipment therefor *or to acquire by gift or*  
 0138 *purchase an existing adult care home to be used as a home for*  
 0139 *the aged.* No building shall be erected or constructed until the  
 0140 plans and specifications have been made therefor and adopted  
 0141 by the governing body of the city and bids advertised for ac-  
 0142 cording to law as for other city buildings.

0143 Sec. 8. K.S.A. 12-4909 is hereby amended to read as follows:  
 0144 12-4909. Every home for the aged established under this act and  
 0145 not leased by the governing body as provided under K.S.A.  
 0146 ~~15-1145 12-4911~~ *and amendments thereto*, shall be operated  
 0147 under the supervision of ~~said the~~ governing body and shall be for  
 0148 the benefit of all the inhabitants of such city, *except that for an*  
 0149 *existing adult care home acquired by a city by gift or purchase*  
 0150 *to be used as a home for the aged, the governing body may*  
 0151 *appoint a board of trustees to supervise the operation of the*  
 0152 *home for the aged.* The governing body of the city is hereby  
 0153 authorized to promulgate and adopt rules and regulations per-  
 0154 taining to the operation of the home for the aged. The governing  
 0155 body *or, if a board of trustees has been appointed, the board of*  
 0156 *trustees* shall appoint a responsible and qualified person who

or for the payment of existing  
 debt on an acquired home

ATTACHMENT IV  
 2/26/86  
 Hs. Local Gov.