

Approved February 21, 1990  
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Sen. Don Montgomery at  
Chairperson

9:00 a.m. ~~p.m.~~ on February 20, 1990 in room 531-N of the Capitol.

All members were present except:

Committee staff present:

Mike Heim, Legislative Research  
Emalene Correll, Legislative Research  
Theresa Kiernan, Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Sen. Sallee

Sen. Sallee testified further on SB 584 relating to fire departments in Jackson County. It would include Jackson County in the list of counties allowed to pass a resolution in their township to bring firemen under the firemen's relief fund.

Sen. Burke made a motion to report SB 584 favorable for passage, Sen. Frahm seconded, and the motion carried.

Attention was turned to SB 577 concerning real estate brokers and salespersons. The Chairman had received a copy of a Report on Scheduled Conference Call Meeting regarding this bill from Gene Yockers of the Real Estate Commission which indicates that no official action was taken. (See Attachment I). He then called the committee's attention to a balloon of the bill and explained that the two amendments would limit it to residential, and the escrow money would be required to be held by a title insurance company. (See Attachment II). Sen. Daniels made a motion to so amend SB 577, Sen. Burke seconded, and the motion carried.

Sen. Allen made a motion to pass SB 577 as amended, Sen. Burke seconded.

Sen. Gaines stated that he does not feel that allowing carpenters and plumbers to sell real estate is good public policy. He feels the contractor should get a real estate broker's license. Sen. Steinger reviewed his earlier statements concerning out-of-state real estate sellers and the Interstate Land Sales Act. He reminded the committee of earlier testimony from a contractor who indicated that his homebuilders association had a low percentage of membership and no outlined standards. Sen. Steinger said that he could view the bill more favorably if the homebuilders had more members and specific standards. Sen. Petty said she had thought the use of "employee" would exclude independent contractors. Sen. Steinger said there would be a way to get around that and allow out-of-state sellers.

Sen. Petty made a substitute motion to amend SB 577 to require contractor's employees to go through 30 hours of real estate training but not be required to be licensed and that the homebuilder be waived from being a real estate broker, Sen. Lee seconded.

Sen. Frahm asked who would be responsible for the required 30 hours. The Chairman explained that it would be from a proper course approved by the Real Estate Commission. It was further determined that only the initial 30 hours training would be required with no continuing education.

On a call for a vote on Sen. Petty's substitute motion, the motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,  
room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on February 20, 1990.

Sen. Burke asked if the builder would be as liable as a broker would be and if the consumer would be able to make recovery. It was determined that this would be correct. Sen. Steineger began a short discussion as to what type of escrow account would be involved. The Chairman felt it would be only a title insurance company policy. The bill will be held until tomorrow when the committee can see the amendment.

The minutes of February 15 were approved.

The meeting was adjourned at 9:45 a.m.



Senate Bill 577 - Report on Scheduled Conference Call Meeting

Gene Yockers called Chairman Jack Metcalf on February 2, 1990 to report on SB-577, which had been introduced on January 31, and is in the Senate Local Government Committee with a hearing scheduled for February 8. After the proposed amendments were discussed, it was Mr. Metcalf's opinion that Mr. Yockers should testify against the bill, and he directed that a conference call meeting be scheduled. The meeting was set for 10 a.m. on February 6, and notice was given on February 2.

Two commission members, David F. Louis and Blaine Schoolcraft, were unavailable for the conference call.

The conference call began at 10 a.m. on February 6 with Vice Chairperson Neta Pollom, Commissioner Tom Byler, Gene Yockers, Director, and Jean Duncan, Administrative Officer. The conference call operator called the roll and reported that Mr. Metcalf would be added. Mr. Byler and Mrs. Pollom were advised of the amendments. Mr. Metcalf did not join the call. Since a quorum did not exist, no official action was taken.

The two commission members were polled. Both Mrs. Pollom and Mr. Byler were in favor of Mr. Yockers testifying against the bill. Mr. Metcalf called after the conference call had been concluded and reported that the operator had been unable to add him to the call. Mr. Yockers advised Mr. Metcalf that Mr. Byler and Mrs. Pollom opposed the bill, and Mr. Metcalf directed Mr. Yockers to testify against SB-577 as not being in the public interest.

Jean Duncan, recorder

Senate Local Gov't  
2-20-90  
Attachment I

**SENATE BILL No. 577**

By Committee on Local Government

1-31

9 AN ACT concerning real estate brokers and salespersons; relating  
10 to exemptions from licensure; amending K.S.A. 1989 Supp. 58-  
11 3037 and repealing the existing section.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 1989 Supp. 58-3037 is hereby amended to read  
15 as follows: 58-3037. The provisions of this act shall not apply to:

16 (a) Any person who directly performs any of the acts within the  
17 scope of this act with reference to such person's own property.

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

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

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

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

33 (f) Any multiple listing service wholly owned by a nonprofit or-  
34 ganization or association of brokers.

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

38 (h) Railroads or other public utilities regulated by the state of  
39 Kansas, or their subsidiaries, affiliated corporations, officers or reg-  
40 ular employees, unless performance of any of the acts described in  
41 subsection (f) of K.S.A. 58-3035 and amendments thereto is in con-  
42 nexion with the sale, purchase, lease or other disposition of real  
43 estate or investment therein unrelated to the principal business ac-

Senate Local Gov't  
2-20-90  
Attachment II

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16

tivity 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 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 5% of the stock of such corporation or an employee of such person, partnership, association or corporation.

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

Sec. 2. K.S.A. 1989 Supp. 58-3037 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

[residential

[Any earnest money received pursuant to a contract for sale or lease under this subsection shall be deposited in an escrow account held by a title insurance company.

[Any earnest money received pursuant to a contract for sale or lease under this subsection shall be deposited in an escrow account held by a title insurance company.

2-11