

Approved February 26, 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 21, 1990 in room 531-N of the Capitol.

All members were present except:

Sen. Ehrlich - Excused

Committee staff present:

Mike Heim, Legislative Research  
Theresa Loermam, Revospr pf Statites  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Sen. Gerald Karr  
Ruth Price, Reading Fire District

Attention was called to SB 649 concerning fire protection; relating to the issuance of bonds and no-fund warrants. Sen. Karr had requested the bill and appeared to explain that, basically, the bill addresses two fire districts in the state organized under this statute where no provision was made that they could make further expansion in their fire protection. He introduced Ruth Price of the Reading Fire District to testify further. She explained that the Reading fire benefit district needs to expand its district fire facilities. There is a lot of grassland and many fires during March through May. The fire district was formed around the Reading Rural High School District, and no provision was made for land and buildings. Their equipment was in need of replacement, and that was accomplished under the statute for emergency equipment. However, there is no statutory permission to issue bonds for land or buildings for the fire department, and this authority is needed. There is a need for buildings for the purpose of maintenance of equipment. Also, the insurance rates are high for the people of her district due to the fact that they do not have adequate fire protection. Neighboring Emporia residents are also affected by Reading's lack of adequate protection for grassland fires.

Sen. Steineger made a conceptual motion to amend line 16 of the bill to add "purchase, acquire, construct and equip" and also to amend in the authority to issue bonds to purchase fire fighting equipment, Sen. Allen seconded, and the motion carried.

It was explained to Ms. Price that the acceptable mill levy is two, but if it goes above one, it is subject to a 5% protest petition. Action will be taken on the bill later when the committee sees the amendments.

The Chairman called attention to SB 479. He explained that the bill does not involve a policy change as was discussed at a previous meeting but is strictly a matter of clean-up of language and moving of sections. It is necessary due to a bill passed in 1989. The bill gives counties the same authority as cities. It eliminates the one statute that speaks only to cities.

Sen. Allen made a motion to report SB 479 favorable for passage, Sen. Steineger seconded, and the motion carried.

A discussion of SB 577 regarding real estate sales by employees of homebuilders began. Attention was called to a balloon of the bill with a third amendment after line 12 as suggested by Sen. Petty regarding instruction for employees of contractors. (See Attachment I). Also copies of information regarding real estate courses from Janet Stubbs of the Home Builders Association had been distributed. (See Attachment II).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,

room 531-N, Statehouse, at 9:00 a.m. ~~p.m.~~ on February 21, 1990.

Sen. Petty felt there should be a conceptual motion to include the three chapters mentioned in Ms. Stubbs' letter of information. Sen. Steineger felt that there are other subjects that should be included as essential to be knowledgeable in the sale of real estate. The Chairman said that further knowledge is only necessary for the contractor who signs the contract. This bill is merely to allow the employee to show the property. The Chairman acknowledged that this is a turf battle, but he feels a compromise can be made.

Sen. Petty felt there should be some training but would need help to determine what that training would be. Sen. Gaines stated he is opposed to the concept of the bill.

Sen. Steineger made a motion to restrict yesterday's amendment by spelling out that the subject matters in Chapters 7, 8, 9, 10, 11, 12, 13, 15, 16, 21, and 23 be included in the training with no specified hours or test, only that attendance be certified; Sen. Gaines seconded.

Sen. Allen began a discussion as to if there would be testing over the chapters covered in Sen. Steineger's motion. Sen. Steineger felt that it is not important that a test be taken; just the knowleged is needed. Sen. Daniels said that without some kind of registry, there would be no record if the course was taken, and this may be an exercise in futility. The Chairman reminded the committee that another committee will be considering this bill and called for a vote on Sen. Steineger's motion, and the motion carried.

Sen. Gaines made a motion to report SB 577 adversely. There was no second.

Sen. Allen made a motion to report SB 577 favorable for passage as amended, Sen. Lee seconded, and the motion carried with Sen. Gaines voting "No".

The minutes of February 20 were approved.

The meeting was adjourned at 9:55 a.m.



**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 nection with the sale, purchase, lease or other disposition of real  
43 estate or investment therein unrelated to the principal business ac-

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1 tivity of such railroad or other public utility or affiliated or subsidiary  
2 corporation thereof.

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

Such employee shall be required to complete the 30 hours of instruction required by K.S.A. 58-3046a, and amendments thereto, for initial licensure as a salesperson, but such employee shall not be required to be licensed as a salesperson. Any corporation to which this subsection applies shall not be required to be licensed as a broker. 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.

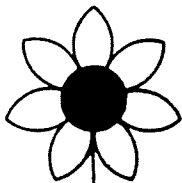
6 (j) The sale or lease of new homes by a person, partnership,  
7 association or domestic corporation who constructed such homes; but  
8 the provisions of this act shall apply to the sale or lease of any  
9 such homes by any employee of such person, partnership or  
10 association or by any employee of such corporation who owns  
11 less than 5% of the stock of such corporation or an employee of  
12 such person, partnership, association or corporation.

Such employee shall be required to complete the 30 hours of instruction required by K.S.A. 58-3046a, and amendments thereto, for initial licensure as a salesperson, but such employee shall not be required to be licensed as a salesperson. Any person, partnership, association or corporation to which this subsection applies shall not be required to be licensed as a broker. 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.

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

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

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



# HOME BUILDERS ASSOCIATION

OF KANSAS, INC.

Executive Director  
JANET J. STUBBS

February 21, 1990

**COPY FOR YOUR  
INFORMATION**

## OFFICERS

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6606 West Central  
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316-942-1891

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**MIKE HAWKS**  
6225 S.W. 23rd St.  
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## H.B.A. ASSOCIATIONS

Dodge City  
Hutchinson  
Manhattan  
Montgomery County  
Salina  
Topeka  
Wichita

## PAST PRESIDENTS

Lee Haworth 1965 & 1970  
Warren Schmidt 1966  
Mel Cilingan 1967  
Ken Murrow 1968  
Roger Harter 1969  
Dick Mika 1971-72  
Terry Messing 1973-74  
Denis C. Stewart 1975-76  
Jerry D. Andrews 1977  
R. Bradley Taylor 1978  
Joel M. Pollack 1979  
Richard H. Bassett 1980  
John W. McKay 1981  
Donald L. Tasker 1982  
Frank A. Stuckey 1983  
Harold Warner, Jr. 1984  
Joe Pashman 1985  
Jay Schrock 1986  
Richard Hill 1987  
M.S. Mitchell 1988  
Robert Hogue 1989

Senator Marge Petty  
Statehouse  
Topeka, Kansas 66603

Dear Senator Petty:

Attached is a list of the schedule for a 30 hour required real estate course.

We have reviewed the list and discussed the contents of each of the courses with regard to relevance for sale and marketing a new property of the builder/developer under the employee/ employer relationship we are discussing in SB 577. There appear to be only 3 chapters listed which would be beneficial for this limited type of work. These are real estate financing, chapter 15; fair housing laws and ethical practices, chapter 21; closing the real estate transaction, chapter 23.

We seem to be losing sight of the type activity in which we anticipate these individuals to engage. For example, Senator Gaines' statement that plumbers and electricians could "sell" a house is absolutely not true. Keep in mind the "employee" vs "independent contractor" relationship. These people are sub-contractors, not employees.

The statement that they could be made "employees" is extremely questionable. However, dishonest people often find ways to circumvent the system just as the Broker who requires more of an "employee" relationship than he is entitled under current law.

Senator Steineger's expressed concern over the out of state company being hired is doubtful since it would not be worthwhile on the under 50 lot provision for exemption from the law which was passed to alleviate the problem experienced in the Lake Perry area a few years ago.

I realize the Realtors and the Real Estate Commission would like to cast as much doubt as possible upon the honesty and integrity of the development community. However, I must again ask that everyone keep in mind that it is the employee of the builder we are seeking this exemption for at this time. The builder, whether he is scrupulous or unscrupulous, has the right to sell



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his own property now under current law. We are asking him to market his product with higher marketing costs than other merchants selling a product with a similar price tag.

I appreciate your concern over this issue and your willingness to communicate. However, I cannot remember a compromise regarding the 30 hour provision such as you were told existed some 5 years ago, and I have been with HBAK for 12 sessions.

Thank you for your consideration of our position.

Sincerely,

Janet J. Stubbs  
Executive Director

enc.

CALENDAR OF CLASS MEETINGS AND READING ASSIGNMENTS

DATE	SESSION	SUBJECT MATTER
04NOV89	I	Chapt 1: Introduction
09:00 AM		Chapt 2: Real Property
		Chapt 3: The Real Estate Business
01:00 PM	II	Chapt 5: Real Estate Brokerage Chapt 6: Listing Agreements
11NOV89	III	Chapt 7: Interests in Real Estate Chapt 8: How Ownership is Held
09:00 AM		
01:00 PM	IV	Chapt 9: Legal Descriptions Chapt 10: R. E. Taxes & Other Liens Distribute Mid-Term Exam (Take home, closed book)
18NOV89		V Chapt 11: Real Estate Contracts Chapt 12: Transfer of Title Review Mid-Term Exam
09:00 AM		
01:00 PM	VI	Chapt 14: Real Estate License Laws Kansas Booklet
02DEC89	VII	X Chapt 15: Real Estate Financing
09:00 AM		
01:00 PM	VIII	Chapt 13: Title Records Chapt 16: Leases Chapt 18: Real Estate Appraisal Distribute Final Exam (Take home, closed book)
09DEC89	IX	Chapt 19: Control of Land Use Chapt 21: Fair Housing Laws & Ethical Practices
09:00 AM		
01:00 PM		X X Chapt 23: Closing the Real Estate Transaction Review Final Exam
16DEC89		REAL ESTATE EXAMINATION AT WSU (8:00 AM to Noon)