Approved _____
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Representative Robert Krehbiel, Chairperson at

1:30 ~~xxx~~/p.m. on Thursday, March 19, 19 92 in room 526-S of the Capitol.

All members were present except:
Representative Joan Wagnon - Excused
Representative Kathleen Sebelius - Excused

Committee staff present:
Lynne Holt, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Mary Torrence, Office of the Revisor of Statutes
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

SB 514
Gene Yockers, Director, Kansas Real Estate Commission
Karen France, Director, Governmental Affairs, Kansas Association of Realtors

Vice-Chairman Krehbiel opened the meeting with discussion and consideration of **HB 2719**.

Representative Douville handed out a letter from Larry Strelow, Vice-President of the Kansas Grape Growers and Wine Makers, Attachment #1.

Representative Douville asked the Committee whether they wanted to permit the sale of non-Kansas wine in the off-site sales locations. One Committee member commented that the current law as amended in the last few years to allow Kansas wines to be mixed with no more than 40% imported wines.

Representative Gjerstad made a motion to pass HB 2719 favorably. Representative Smith made a second to the motion.

Representative Douville made a substitute motion to hold the bill over for two days or until Mr. Strelow could address the Committee. Representative Graeber made a second to the motion.

One Committee member voiced his opposition to the substitute motion. One Committee member expressed concern, and a point of order was called. It was stated that since Representative Douville's motion was essentially to table the bill, there could be no discussion on the motion.

A voice vote was taken on Representative Douville's substitute motion, and it **failed**.

The question was called and Representative Gjerstad's motion **passed** on a voice vote.

Vice-Chairman Krehbiel opened the hearings on **SB 514**.

Gene Yockers appeared before the Committee as a proponent of SB 514, and offered several amendments, Attachment #2.

Several Committee members were concerned with the use of the word "forgery" on page 3, line 31. A member suggested that instead of "forgery", the term "sign someone else's name" be used. An alternate suggestion was to replace "forgery" with "forgery, unless authorized".

Karen France testified in favor of SB 514, Attachment #3.

Ms. France explained the term "equiteering" and provision in the bill that addresses it in response to a question from a Committee member.

Representative Graeber made a motion to pass favorably SB 514, including a change to page 3 with regard to forgery. Representative Sprague made a second to the motion, which passed on a voice vote.

Vice-Chairman Krehbiel adjourned the meeting.

GUEST LIST

DATE 3-19-92

(PLEASE PRINT) NAME	ADDRESS	WHO YOU REPRESENT
Gene Yockers	Top.	KREC
Jack Dunn	Topeka	KLWSWA

Don Smith
Look 2nd
Sebillius Fed State
HB 2719

January 31,1992

From: Larry Strelow
Twin Rivers Vineyard
PO Box 32
Valley Center, KS 67147

To: Sedgwick County Legislators

Dear Legislators
There is a bill that has been introduced to the Legislature that is intended to alter the Home Winery Act. The basic idea of the changes being asked for are to allow three additional off primes (winery site) tasting and sales locations. The intent is to increase the visibility and availability of wine products.
At first look these seem like a way to increase sales and provide additional tax income. But, I would like to see changes the are more beneficial to Kansas products then what the amendment is asking for.
I am in favor of an off site sales location, but I would limit the number of off sites locations to one. I would increase the license fee from $50.00 to $500.00. I would increased the tax per gallon at the off site locations by ten cents. And Please, Please, Please give that 10 cent per gallon tax money to the Kansas State University, the Agriculture Department for grape and grape products research only.
The original intent of the Kansas Home Winery Act was to provide a ways and means to grow, produce and sell a Kansas agriculture product. It was not intended to provide a cover for the increase volume of wine sales of non Kansas wines. The off site locations should be restricted to selling Kansas wines only.
I hope I have not confused my request with too much text.
I would like to see changes to the Kansas Home Winery Act limited to.

1. Allow only one off site sales location.
2. Set the license fee at $500.00.
3. Put an additional ten cent per gallon tax on the wine sold at the off site and provide the income to Kansas State University, Agriculture Dept. for grape research only.
4. Allow only Kansas wines to be sold at off site locations.

Thank you,

Larry Strelow
Vice President of the Kansas Grape Growers and Wine Makers
Twin Rivers Vineyard
PO Box 32
Valley Center, Kansas 67147
phone # 316-755-1403

House Federal & State Affairs
March 19, 1992
Attachment # 1

House Federal and State Affairs Committee
March 18, 1992
Senate Bill 514

Mr. Chairman and members of the committee:

My name is Gene Yockers, and I am the Director of the Kansas Real Estate Commission. The commission requested several amendments to the "prohibited acts" section of the statute.

Lines 27-29, page 1
This past year, the commission learned that a real estate broker had collected funds to pay off the mortgage in two different transactions and had converted the funds to his own use. One case amounted to more than $61,000 and the other to more than $35,000. Although his license was revoked, we had no provision that adequately reflected what he had done. The amendment to paragraph (3) will give us stronger language where licensees are guilty of more than commingling funds.

Lines 25-28, page 2
The commission is often asked what happens to listing agreements when companies close or merge. Although this is a civil matter, the license act gets involved because licensees want to know if they can solicit listings without violating the license act. The commission feels the new language is needed and that it will address at least part of the problem. The amendment provides that a licensee shall not "assign, sell or otherwise transfer a written agency agreement to another broker without the express written consent of all parties to the original listing agreement."

Lines 37-38, page 2; lines 4 and 12-13, page 3
Disclosure of agency relationships must be contained in contracts for sale or lease. The amendment addresses any confusion as to whether disclosure is required in a lot reservation agreement.

Lines 28-34, page 3
New paragraph 21 results from a case where a broker had a provision in the listing agreement whereby the seller appointed the broker as attorney-in-fact and authorized the broker to execute an agreement of sale. Thereafter, it was a sad story for the seller.

The commission feels strongly that a power of attorney should not be included in an agency agreement (in either the listing agreement with the seller or an agency agreement with the buyer). This is covered in the first sentence of the new language (lines 25-28). The second sentence prohibits a licensee from committing forgery (again, stronger language, for situations that warrant it) and from signing or initialing a contractual agreement without a duly executed power of attorney.

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Attachment #2

Lines 28-36, page 4
The existing language (paragraph 29, lines 24-27) requires a licensee to present all written offers which are received prior to the acceptance of the offer by the principal. The problem here is that a licensee may comply with this provision and still violate the fiduciary responsibility to the seller. The courts are holding that offers must be presented until closing.

The new language in paragraph 30 replaces paragraph 29 and covers offers submitted when the licensee represents the seller. Paragraph 31 has been added to cover offers submitted when the licensee represents the buyer.

Beginning on line 9, page 5
New paragraph 36, added by the Senate Committee and amended by the Senate Committee of the Whole, prohibits a real estate licensee from engaging in a practice known as equiteering. The commission supports the amendment.

Section 2 (page 7)
All amendments in this section are to update references which were amended by Section 1 of the bill.

We ask that you recommend the bill for passage. Thank you for your consideration.

KANSAS ASSOCIATION OF REALTO

REALTOR®

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

TO: THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS

DATE: MARCH 18, 1992

SUBJECT: SB 514

Thank you for this opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear to support SB 514.

While we have no problems with the balance of the bill we are particularly supportive of section (36) on page 5 of the bill dealing with equiteering.

We have been dealing with a growing number of complaints over the years concerning the practice of "equiteers". We strongly support the ability of property owners to have and exercise their rights of redemption. We are concerned that if the practices which we have heard about continue, there will be a movement to shorten or diminish the redemption rights. We support this bill and a companion criminal bill, which the House has already passed, because we believe they handle the problems which equiteering can cause, without diminishing redemption rights.

The information we have received indicates that the debtor homeowners lose, the mortgage holders lose and the renters lose. The only winners are the equiteers who walk away with money in their pockets.

Under current practice the debtor homeowners are given a sum of money by the equiteer in return for signing over their redemption rights. They believe this transaction will absolve them from any further obligations on the property. The

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Attachment #3

equiteer then rents the property during the balance of the redemption period and pockets the rent.

The property, typically is not maintained during the redemption period. Thus, the value depreciates and when it comes to the end of the redemption period, the mortgage holder often must take deficiency judgment against the original debtor who was under the misconception that they were free and clear of any further obligations. To top it off, the renters are removed by the mortgage holder without having any forewarning in their lease agreement that this property was in foreclosure.

The language in SB 514 and HB 2940, referred to earlier, both strike a reasonable balance between all interested parties. The debtor homeowner can still retain or sell their redemption rights. The lender receives the rental payments which will reduce the amount of the outstanding mortgage and the renter would be put on notice of the redemption situation at the beginning of the lease.

This practice is already illegal for FHA and HUD insured properties, with much stiffer penalties than those provided in HB 2940. The provision in this bill would subject a real estate licensee to fine, suspension or revocation for this kind of activity.

We ask for your support of this legislation.