

Approved May 7, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:10 a.m. on Tuesday, March 31, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. J. C. Long, excused.

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research; Don Hayward and Bill Edds, Revisors; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee:

The Chair opened the public hearing on SB 582, county boards of equalization; appointment of panels to assume duties of.

Bev Bradley, Deputy Director of the Kansas Association of Counties, testified regarding SB 582 (Attachment 1).

In response to a question from the Chair, Bradley said SB 8 contained similar provisions to those in SB 582.

The Chair closed the public hearing on SB 582 and opened the hearing on SB 583, employees of county appraisers and education requirements, for discussion and action.

Tom Severn, Legislative Research Analyst, briefed the committee on SB 583.

Larry Clark, Wyandotte County Appraiser, testified on behalf of the Kansas County Appraisers Association in favor of SB 583. He said SB 583 would require everyone involved in appraisal process of a county be educated by the county.

In response to a question from Rep. Rex Crowell, Clark said the Kansas County Appraisers Association requested the International Appraisers Association audit of the county appraisals.

The hearing was closed on SB 582 and opened for SB 580, property tax; change of value notice and maintenance of valuation listing, for discussion and action.

Clark said the Appraisers Association had requested introduction of SB 580 in its original form, but that Senate amendments had altered the original intent of the bill. Therefore, the association opposes SB 580 in its current form.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Tuesday, March 31, 1992.

Responding to a question from Rep. Bob Vancrum, Clark said the purpose of the original bill was related to the confines of the KAMA system and legislative dictates to use the income approach to appraisal.

The Chair closed the hearing on SB 580 and opened the public hearing on SB 602.

Mark Burghart, General Counsel for the Department of Revenue, testified in regard to SB 602 (Attachment 2).

Responding to a question from Rep. Bruce Larkin, Burghart said electronic filing could lead to a decrease in the need for personnel.

Rep. Vancrum stated his concern that the electronic filing system could have a negative fiscal impact because it will accelerate the refund process, thereby withdrawing money faster than the income tax payments system brings revenues into the state account. He suggested the state would do better to institute electronic filing for both the refund and tax liability parts of the income tax system.

In response to a question from Rep. Bill Reardon, Burghart said Rep. Vancrum's suggestion is being pursued, but that the refund system was chosen for action first because it is the simpler system. Ultimately electronic filing will be mandatory and services will be necessary for those unable to afford private electronic filing services, he said.

The public hearing on SB 602 was closed and the public hearing on HB 3195 was opened.

Rep. Jim Lowther briefed the committee on the bill.

Rep. Vancrum made a motion to report the bill favorably and that it be placed on the consent calendar. Rep. Kent Glasscock seconded the motion. The motion carried.

The meeting adjourned at 9:47 a.m. The next meeting will be April 1 at 12:00 noon.



"Service to County Government"

1275 S.W. Topeka Blvd.
Topeka, Kansas 66612
(913) 233-2271
FAX (913) 233-4830

EXECUTIVE BOARD

President
Marion Cox
Wabaunsee County Sheriff
Wabaunsee County Courthouse
Alma, KS 66401
(913) 765-3323

Vice-President
Murray Nolle
Johnson County Commissioner
Johnson County Courthouse
Olathe, KS 66061
(913) 432-3784

Past President
Marjory Scheufler
Edwards County Commissioner
(316) 995-4973

Roy Patton
Harvey County Weed Director
(316) 283-1890

Nancy Prawl
Brown County Register of Deeds
(913) 742-3741

DIRECTORS

Leonard "Bud" Archer
Phillips County Commissioner
(913) 689-4685

George Burrows
Stevens County Commissioner
(316) 593-4534

Dudley Feuerborn
Anderson County Commissioner
(913) 448-5411

Howard Hodgson
Rice County Commissioner
(316) 897-6651

Harvey Leaver
Leavenworth County Engineer
(913) 684-0468

Mark Nicholas
Graham County Appraiser
(913) 674-2196

Gary Watson
Trego County Treasurer
(913) 743-2001

Vernon Wendelken
Clay County Commissioner
(913) 461-5694

Barbara Wood
Bourbon County Clerk
(316) 223-3800, ext 54

NACo Representative
Keith Devenney
Geary County Commissioner
(913) 238-7894

Executive Director
John E. Torbert, CAE

To: Representative Joan Wagon, Chairperson
Members House Taxation Committee

From: Bev Bradley, Deputy Director
Kansas Association of Counties

Date: March 31, 1992

RE: SB 582-Hearing panels for Board of Equalization

The Kansas Association of Counties generally supports the concept in SB 582. We have a convention adopted position which states, "The Kansas Association of Counties endorses the enactment of legislation which would give the Board of County Commissioners the local option of appointing a certifies appraiser(s) to carry out the functions of the Board of Equalization in those instances in which the Board of County Commissioners deems such action appropriate."

We do however have some concern with the amendment passed by the Senate Assessment and Taxation Committee which requires that only persons licensed under the provisions of the real estate brokers' and salespersons' license act, K.S.A. 58-3034 et seq., and amendments thereto, or licensed or certified under the provisions of the state certified and licensed real property appraisers act, K.S.A. 1991 Supp. 58-4101 et seq., and amendments thereto, shall be eligible to serve on such hearing panels." Our concern is the availability of such persons in all counties. If indeed there is such a qualified person will that person be willing to assume such duties as the board of equalization. Many Boards of County Commissioners wish to continue as the Board of Equalization, but if they chose this option, are the persons available?

With that reservation, The Kansas Association of Counties supports SB 582.

TSB582

House Taxation
Attachment 1
03-31-92

58-4012. Act exclusive procedure for museums; exception, state historical society.

(a) The state historical society and its institutions and libraries may, at its option, acquire title to property pursuant to the provisions of this act or pursuant to the provisions of K.S.A. 33-104 and amendments thereto.

(b) Museums, other than the state historical society and its institutions and libraries, may acquire title to loaned property only as provided by this act.

History: L. 1989, ch. 120, § 12; July 1.

58-4013. Retroactive application. (a) K.S.A. 1989 Supp. 58-4001 through 58-4007 are retroactively applicable to all property in the possession of a museum within the state on or after January 1, 1989.

(b) K.S.A. 1989 Supp. 58-4008 is effective July 1, 1990, and when effective is retroactively applicable to all property in the possession of a museum before July 1, 1990, and is prospectively applicable to all property in the possession of the museum on or after July 1, 1990, for which a claim is filed on or after July 1, 1990.

History: L. 1989, ch. 120, § 13; July 1.

Article 41.—REAL ESTATE APPRAISERS

58-4101. Short title. This act shall be known and may be cited as the state certified real estate appraisers act.

History: L. 1990, ch. 270, § 1; April 19.

58-4102. Real estate appraisers; definitions. As used in this act:

(a) "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

(b) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate.

(c) "Appraisal report" means any communication, written or oral, of an appraisal.

(d) "Board" means the real estate appraisal board established pursuant to the provisions of this act.

(e) "Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given or signed and certified as such by a state certified real estate appraiser. When identifying an appraisal or appraisal report as certified, the state certified real estate appraiser must indicate which type of certification is held. A certified appraisal or appraisal report represents to the public that it meets the appraisal standards defined in this act.

(f) "Commission" means the Kansas real estate commission.

(g) "Federal law" means title XI of the financial institutions reform, recovery and enforcement act of 1989 (12 U.S.C. 3331 et seq.) and any other federal law, and any regulations adopted pursuant thereto.

(h) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(i) "Real estate appraisal organization" means any nationally recognized organization of professional appraisers.

(j) "Real property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

(k) "Specialized services" means those appraisal services which do not fall within the definition of appraisal assignment. Specified services may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services.

(l) A "state certified real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid general or residential certificate issued to such person under the provisions of this act.

History: L. 1990, ch. 270, § 2; April 19.

58-4103. Same; certification, when required; temporary certification; penalty for violations. (a) Except as provided in subsection (b), no person, other than a state certified real estate appraiser, shall:

(1) Engage in any appraisal of real property for which certification is required pursuant to this act;

(a) "Advance listing fee" means any fee charged for services and paid in advance of the rendering of such services, including without limitation any fees charged for listing, advertising or offering for sale or lease any property, but excluding any fees paid solely for advertisement in a newspaper of general circulation.

(b) "Associate broker" means an individual who has a broker's license and who is employed by another broker or is associated with another broker as an independent contractor and participates in any activity described in subsection (c).

(c) "Broker" means an individual, other than a salesperson, who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner of real estate:

(1) Sells, exchanges, purchases or leases real estate.

(2) Offers to sell, exchange, purchase or lease real estate.

(3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.

(4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.

(5) Auctions or offers, attempts or agrees to auction real estate.

(6) Buys, sells, offers to buy or sell or otherwise deals in options on real estate.

(7) Advertises or represents that such individual engages in the business of buying, selling, exchanging or leasing real estate.

(8) Assists or directs in the procuring of prospects calculated to result in the sale, exchange or lease of real estate.

(9) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.

(10) Engages in the business of charging an advance listing fee in connection with any contract by which such individual undertakes to promote the sale or lease of real estate either through its listing in a publication issued for such purpose or for referral of information concerning such real estate to brokers, or both.

(11) Assists in or directs the procurement of or arrangement for mortgage financing on real estate while not acting in

the capacity of a mortgagee or a mortgagee's agent who is authorized to make real estate loans under state or federal authority.

(12) Provides lists of real estate as being available for sale or lease.

(d) "Commission" means the Kansas real estate commission.

(e) "Lease" means rent or lease for non-residential use.

(f) "Licensee" means any person licensed under this act as a broker, associate broker or salesperson.

(g) "Office" means a broker's place of business, where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business.

(h) "Person" means any individual or any foreign or domestic corporation or partnership.

(i) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or non-freehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests.

(j) "Salesperson" means any individual, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (c).

History: L. 1980, ch. 164, § 2; July 1.

58-3036. Licensure required. Unless exempt from this act under K.S.A. 58-3037, no person shall:

(a) Directly or indirectly engage in or conduct or represent that such person engages in or conducts the business of a broker, associate broker or salesperson within this state unless such person is licensed as such a broker, associate broker or salesperson in accordance with this act.

(b) Directly or indirectly act or represent that such person acts as a broker, associate broker or salesperson within this state unless such person is licensed as such a broker, associate broker or salesperson in accordance with this act.

(c) Perform or offer, attempt or agree to perform any act described in subsection (c) of K.S.A. 58-3035, whether as a part of a transaction or as an entire transaction, un-

less such person is licensed pursuant to this act.

History: L. 1980, ch. 164, § 3; July 1.

58-3037. Exemptions. The provisions of this act shall not apply to:

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

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

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

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

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

(f) Any multiple listing service wholly owned by a nonprofit organization or association of brokers.

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

(h) Railroads or other public utilities regulated by the state of Kansas, or their subsidiaries, affiliated corporations, officers or regular employees, unless performance of any of the acts described in subsection (c) of K.S.A. 58-3035 is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity 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 five percent (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 five percent (5%) of the stock of such corporation.

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

History: L. 1980, ch. 164, § 4; July 1.

58-3038. Licensure required to recover compensation. No action shall be instituted or recovery be had in any court of this state by any person for compensation for any act or service, the performance of which requires a license under this act, unless such person was duly licensed under this act at the time of offering to perform any such act or service or procuring any promise to contract for the payment of compensation for any such contemplated act or service. Nothing herein shall preclude a person who is properly licensed as a broker or salesperson in another jurisdiction from collecting a referral fee.

History: L. 1980, ch. 164, § 5; July 1.

58-3039. Licensure; application; qualifications; examination. (a) Any person desiring to act as a broker or salesperson must file a written application for a license with the commission. The application shall be in such form and detail as the commission shall prescribe and shall be accompanied by the appropriate license fee.

(b) A license to engage in business as a broker or salesperson shall be granted only to a person who is eighteen (18) or more years of age and who has a high school diploma or its equivalent.

(c) In addition to the requirements of subsection (b), each applicant for an original license as a broker shall have been licensed and actively engaged in business as a salesperson, in this or another state, for a period of at least two (2) years during the five (5) years immediately preceding the date of the application for a license. The commission, in its discretion, may accept proof of experience deemed by the commission to be equivalent to two years' experience as a salesperson.

(d) Except as provided in K.S.A. 58-3040, each applicant for an original license shall be required to pass a written examination covering generally the matters confronting brokers or salespersons, and no license shall be issued on the basis of such an examination which was administered more than four (4) months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(e) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of broker or salesperson in such manner as to safeguard the public interest.

(f) An application for an original license as a salesperson shall be accompanied by the recommendation of the broker with whom the salesperson is to be associated, or by whom the salesperson is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.

History: L. 1980, ch. 164, § 6; July 1.

58-3040. Nonresident license. (a) A nonresident of this state may be granted a broker's license if:

(1) The nonresident is licensed as a broker in the nonresident's state of residence; and

(2) Such nonresident meets all requirements imposed by this act on Kansas residents for licensure as a broker, except that the commission may waive the examination requirement for a nonresident who has passed an examination equivalent to that given to Kansas residents and whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses.

(b) A nonresident salesperson or associate broker employed by or associated with a broker licensed pursuant to this act may

be granted a salesperson's or broker's license under such broker, if:

(1) The salesperson or associate broker is licensed as a salesperson or associate broker in the salesperson's or associate broker's state of residence; and

(2) Such salesperson or associate broker meets all requirements imposed by this act on Kansas residents for licensure as a salesperson or broker, except that the commission may waive the examination requirement for a nonresident salesperson or associate broker who has passed an examination equivalent to that given to Kansas residents and whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses.

(c) Prior to the issuance of a license to a nonresident, the applicant shall file with the commission a designation in writing that appoints the director of the commission as the applicant's agent, upon whom all judicial and other process or legal notices directed to the applicant may be served in the event such applicant becomes a licensee. Any process or legal notices to a nonresident licensee shall be directed to the director, accompanied by a fee of three dollars (\$3), and, in the case of a summons, shall require the nonresident licensee to answer within forty (40) days from the date of service on such licensee. A summons and a certified copy of the petition shall be forthwith forwarded by the clerk of the court to the director, who shall immediately forward a copy of the summons and the certified copy of the petition to the nonresident licensee. Thereafter, the director shall make return of the summons to the court from which it was issued, showing the date of its receipt by the director, the date of forwarding and the name and address of the person to whom the director forwarded a copy. Such return shall have the same force and effect as a return made by the sheriff on process directed to the sheriff.

(d) Prior to the issuance of a license to a nonresident, the applicant must agree in writing to abide by all provisions of this act with respect to the applicant's real estate activities within the state and submit to the jurisdiction of the commission and the state in all matters relating thereto. Such agree-

**Kansas Department of Revenue
Joint Electronic Filing
January 1992**

• **TAX YEAR 1990 FACTS**

1,200,000 returns filed, evenly split between refunds/balance dues
Average Kansas refund was \$184.00
71,000 Kansans filed with IRS in tax year '90, expect 100,000 in '91

• **HOW ELECTRONIC FILING WORKS**

Day 1 Enter Federal & Kansas returns into IRS/KDOR accepted software
Transmit returns to IRS (Austin Tx), IRS confirms receipt
Day 2 Retrieve IRS acknowledgement on return acceptance/rejection
Complete IRS signature form, mail to IRS with W-2 statements
Day 3 Retrieve Kansas return data from IRS
Day 4 Initiate internal processing of return; requires couple days
Day 7 Refund ready for mailing to taxpayer

• **TAX YEAR 1991 - PILOT PROJECT**

Controlled processing environment
Employee volunteers from Department of Revenue; eighty (80) to date
Refund only, full year Kansas resident restriction

• **TAX YEAR 1992 OBJECTIVES**

Statewide processing of Kansas refund returns; some limitations
Offer Direct Deposit option
Implement tax preparer application, tracking and certification process
Modify KDOR manual and computer processing systems

• **FUTURE OF ELECTRONIC FILING**

1993 Expand refund processing
Add acceptance of balance due returns (File now-Pay later)
Consider RAL's option (Refund Anticipation Loans)
1994+ Continue increasing capabilities

• **COSTS**

FY 92 Costs estimated at \$19,000. Expenses to date \$12,000
Software, travel, duplicating, postage, etc.
FY 93 Costs estimated at \$70,000 for PC's, duplicating,
computer costs (CPU, Disk, etc) and travel expenses.
Personnel costs for altering internal systems not included.
FY 94 Potential IRS handling and storage fee charge
Computer associated, travel and related project costs

• **BENEFITS**

Reduction of Data Entry workload
Reduction in correspondence with taxpayers (less return errors)
Reduction in paper handling and processing
Improved service by tax preparers to clients
Improved image of KDOR to taxpayers

House Taxation
Attachment 2
03-31-92