

Approved

May 7, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 12:35 p.m. on Wednesday, April 1, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Jo Ann Pottorff, excused.

Committee staff present:

Tom Severn, Legislative Research; Bill Edds, Revisor; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee:

The Chair opened the public hearing on SB 598, regarding real estate sales validation questionnaires.

Sara Ullman, Johnson County Register of Deeds, testified in favor of SB 598 on behalf of the Kansas Register of Deeds Association (Attachment 1).

Committee members discussed the fine for falsified real estate values for the purposes of appraisals.

David Cunningham, Director of Property Valuation, spoke in favor of increasing the maximum fine to \$500.

James H. Irish, Legislative Coordinator for the Greater Kansas Chapter of the Appraisal Institute, spoke in favor of reinstating the fine which was removed from the bill in the Senate.

The public hearing on SB 598 was closed.

Rep. Bruce Larkin made a motion to amend SB 598 as requested by the Kansas Register of Deeds Association in Attachment 1. Rep. Aldie Ensminger seconded the motion which carried.

Rep. Gwen Welshimer made a motion to increase the maximum fine for falsified real estate values for the purposes of appraisals from \$100 to \$500. Rep. Joan Adam seconded the motion which carried.

Rep. Marvin Smith made a motion to report SB 598, as amended, favorable for passage. Rep. Ken Grotewiel seconded the motion which carried.

The Chair brought up SB 602, regarding electronic filing of individual income tax returns, for discussion and action.

Rep. Bob Vancrum and Rep. Grotewiel expressed their concerns about the bill.

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Mark Burghart, General Counsel for the Department of Revenue, answered questions and briefed the committee on the electronic filing project.

Rep. Jesse Harder made a motion to report SB 602 favorably. Rep. Steve Wiard seconded the motion.

The Chair stated the intention of the committee that electronic filing of income tax refunds and liabilities be pursued by the Department of Revenue as soon as possible.

The motion of Rep. Harder carried.

The Chair brought up SB 578, regarding the disclosure of certain tax information, and HB 2926, regarding reporting of intangible income, for discussion and action.

Rep. Bob Krehbiel made a motion to amend the provisions of HB 2926 into SB 578. Rep. Harder seconded the motion.

In response to a question from Rep. Vancrum regarding signature on intangible income report under penalty of perjury, Burghart said the intangible income reporting form has the penalty of perjury provision, but that that provision was not written into the statutes to the best of his knowledge.

Rep. Vancrum said Rep. Krehbiel's motion to require the reporting of intangible income for all Kansas taxpayers would unnecessarily complicate the process for taxpayers.

Rep. Krehbiel said requiring the reporting of intangible income is necessary to assist counties' enforcement of local intangibles taxes and provide valuable information to the Legislature.

The motion of Rep. Krehbiel carried. Rep. Vancrum and Rep. Welshimer voted no.

Rep. Grotewiel made a motion to allow the Department of Revenue to acquire phone numbers from the Department of Human Resources for delinquent taxpayers. Rep. Adam seconded the motion which failed with 8 for and 10 against.

Rep. Larkin made a motion to report SB 578, as amended, favorably for passage, seconded by Rep. Harder.

Rep. Aldie Ensminger made a substitute motion, seconded by Rep. Grotewiel, to allow the Department of Revenue to acquire the names, addresses, Social Security numbers and phone numbers of delinquent taxpayers from the Department of Human Resources. The motion carried.

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Rep. Larkin made a motion to report SB 578 favorably, seconded by Rep. Adam. The motion carried.

The Chair brought up SB 568, regarding residential property used for day care homes classified as residential property, for discussion and action. She noted an identical bill was passed by the committee.

Rep. Eugene Shore made a motion to report SB 568 favorably. Seconded by Rep. Wiard, the motion carried.

The Chair brought up SB 579, regarding the appointment of county appraisers, and SB 583, regarding education requirements for county appraisers and their employees, for discussion and action.

Rep. Roe made a motion to report SB 579 favorably. Seconded by Rep. Welshimer, the motion carried.

Rep. Ensminger expressed his concern that counties would have to pay for the state mandated education for appraisers in SB 583 and that the costs are unknown.

In response to a question from Rep. Ensminger, David Cunningham, Director of Property Valuation, said costs would be the responsibility of the counties, but that he could not estimate those costs.

After discussion, Rep. Larkin made a motion to table SB 583, seconded by Rep. Roe. The motion failed with six affirmative votes.

Rep. Ensminger made a motion mandating that the cost for appraisers' training mandated by SB 583 be borne by the reappraisal maintenance fund. Rep. Adam seconded the motion.

Following discussion, the motion failed on a tie vote, 9 to 9.

The Chair suspended discussion on SB 583 until an amendment could be proposed.

The Chair brought up SB 582, regarding the appointment of panels to assume the duties of county boards of equalization, and HB 2944, regarding the determination of fair market value of income producing property, for discussion and action.

Rep. Vancrum made a motion to amend HB 2944 into SB 582. After being seconded by Rep. Smith, the motion failed on a tie vote of 8 to 8.

Rep. Vancrum distributed a letter from James H. Irish, Legislative

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Coordinator for the Greater Kansas Chapter of the Appraisal Institute (Attachment 2).

Rep. Vancrum moved and Rep. Roe seconded to remove the provisions of SB 582 and insert the appraisers standards contained in Attachment 2.

Cunningham responded affirmatively to a question on the motion of Rep. Vancrum.

Rep. Welshimer requested the motion be divided. The Chair ruled the request in order. The motion was divided.

The first part of the motion to mandate uniform appraisal standards (in Attachment 2) carried.

The second part of the motion was to eliminate the provisions of SB 582. The result of this would require higher standards for hearing panels than those previously approved by the committee in SB 8. The motion carried with 13 affirmative votes.

Rep. Vancrum made a motion to report SB 582, as amended, favorably. Rep. Roe seconded the motion which carried.

Committee discussion returned to SB 583.

In response to a request from the committee, Cunningham suggested language giving counties the ability to prove certified appraisers are in compliance with the education requirements of SB 583. In such cases, additional training would not be required by the provisions of SB 583.

Rep. Vince Snowbarger made a motion to adopt the language suggested by Cunningham. Rep. Vancrum seconded the motion which carried.

Rep. Adam made a motion to report SB 583, as amended, favorably. Rep. Grotewiel seconded the motion which carried.

The committee approved the committee minutes for February 4, 5 and 27.

Rep. Roe made a motion to take HB 3181, lowering the severance tax on natural gas, from the table. Rep. Shore seconded the motion which carried with 14 affirmative votes.

Rep. Roe made a motion to report HB 3181 favorably. Seconded by Rep. Ensminger, the motion carried with 15 yes votes.

The meeting adjourned at 2:06 p.m. The next meeting will be April 6 at 11:30 a.m.

REGISTER OF DEEDS

KANSAS

ASSOCIATION

PRESIDENT Mary Ann Holsapple, Nemaha Co.
VICE-PRESIDENT Charlotte Shawver, Riley Co.

Janice Gillispie, Thomas Co.
Rose Ann Rupp, Ellis Co.

SECRETARY
TREASURER

The Kansas Register of Deeds Association would offer the following changes to S.B. 598.

Exemption number (12) should read:

(12) by way of a quit claim deed filed for the purpose of clearing title encumbrances; or

The current language of exemption number (12) we believe is covered under exemption number (3).

We would ask that language be included in this bill which would require that the reason for not providing a Real Estate Sales Validation Questionnaire be on the face of the Deed.

Example: No Real Estate Sales Validation Questionnaire provided per exemption number (8), K.S.A. 79-1437e.

This would be extremely helpful to the Register of Deeds. They would not be put in the position of determining if an sales questionnaire is necessary. We currently do make this determination, but the number of exemptions has greatly increased calling for more judgement calls on our part. Determining this delays filing and often causes multiple correspondence with the filer clarifying the situation.

We also understand that the language has been eliminated which dealt with fines. It seems to us that if there is no penalty for providing the correct information, we simply will have a system of garbage in, garbage out. The Real Estate Sales Validation Questionnaire was developed to collect the correct information at the time of filing to more easily determine the information necessary for the Appraiser. We would support the return of some penalty for false information.

A bubble on the bill is provided for your convenience.

We would be happy to stand for any questions.

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- 1 interest in property to the other;
- 2 (9) made solely for the purpose of creating a joint tenancy or
- 3 tenancy in common;
- 4 (10) by way of a sheriff's deed; or
- 5 (11) by way of a deed which has been in escrow for longer than
- 6 five years;
- 7 ~~(12) when the sole purpose is to add or delete a name or names~~
- 8 ~~from a deed previously recorded, and without additional consider-~~
- 9 ~~ation; or~~
- 10 (13) when title is transferred to convey right-of-way or pursuant
- 11 to eminent domain.
- 12 → Sec. 3. K.S.A. 1991 Supp. 79-1437g is hereby amended to
- 13 read as follows: 79-1437g. Any person who shall falsify the
- 14 value of real estate transferred shall be deemed guilty of a
- 15 misdemeanor and upon conviction thereof shall be fined not
- 16 more than \$100 *certify for filing a real estate sales validation*
- 17 *questionnaire containing false information shall forfeit not less*
- 18 *than \$1,500 for each such offense, such penalty to be recovered*
- 19 *in the name of the state of Kansas and paid into the state*
- 20 *treasury.*
- 21 Sec. 4 [3]. K.S.A. 1991 Supp. 79-1437c, [and] 79-1437e and
- 22 79-1437g are hereby repealed.
- 23 Sec. 5 [4]. This act shall take effect and be in force from and
- 24 after its publication in the Kansas register.

(12) by way of a quit claim deed filed for the purpose of clearing title encumbrances; or

When a Real Estate Sales Validation Questionnaire is not required due to one or more of the above exemptions, the exemption claimed must be clearly stated on the document being filed.

GREATER KANSAS CHAPTER of the APPRAISAL INSTITUTE

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March 9, 1992

Representative Robert J. Vancrum
Kansas House of Representatives
State Capitol, Room 156-E
Topeka, Kansas 66612

Re: House Bill No. 2944

Dear Bob:

The positive approach to begin rectifying Kansas reappraisal problems is to tie the State's definition of Fair Market Value (K.S.A. 1991 Supp. 79-503a) to the Uniform Standards of Professional Appraisal Practice (USPAP) as we have discussed. The Greater Kansas Chapter of the Appraisal Institute's proposal to accomplish this is to amend your bill with the language found in Title XI, Real Estate Appraisal Reform Amendments, of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The specifically applicable language is found at Sec. 1110(1) (P.L. 101-73, 103 STAT. 514, 12 USC 3339).

The entire last paragraph of existing Section One of K.S.A. 1991 Supp. 79-503a contains obsolete federal language which pertains to appraisal standards ("procedures"), rather than to the actual definition of "fair market value." This paragraph should be deleted therefrom. The paragraph begins on page 2 of your bill at line 6 as "The appraisal process utilized . . .". The new instructional language proposed in HB 2944 also should be deleted in accordance with our discussions.

The Greater Kansas Chapter of the Appraisal Institute proposes that Kansas adopt the new federal language, which adapted from 12 USC 3339 will read as a new Section Two:

The Property Valuation Division shall prescribe appropriate standards for the performance of appraisals in connection with ad valorem taxation in this state. These rules shall require, at a minimum-

(1) that all appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(2) that such appraisals shall be written appraisals.

The Property Valuation Division or a county appraiser may require compliance with additional standards if it/he/she makes a determination in writing that such additional standards are required in order to properly carry out its/his/her statutory responsibilities.

A new Section Three should be inserted concerning implementation, adapted from FIRREA (P.L. 101-73 at Sec. 1111, 103 STAT. 514, 12 USC 3340):

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Sec. 3. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

Appraisal standards established under this act shall be adopted:

(1) The Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation in effect on March 1, 1992, for all dates of valuation on or after January 1, 1993, are hereby adopted upon publication of this act as an interim emergency rule; and

(2) Appraisal standards established under this title shall be proposed not later than six (6) months and shall be adopted in final form and become effective not later than twelve (12) months after publication of this act.

A new Section Four should be inserted, again adapted from the FIRREA (P.L. 101-73 at Sec. 1121(9&10), 103 STAT. 518, 12 USC 3350):

Sec. 4. DEFINITIONS: For the purposes of this act:

(1) FOUNDATION.-The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(2) WRITTEN APPRAISAL.-The term "Written Appraisal" means a written statement used in connection with the activities of the Property Valuation Division or a county appraiser that is independently and impartially prepared by the Director of the Property Valuation Division, a county appraiser or by the designee of either setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

Existing Sections 2 and 3 would be renumbered as 5 and 6.

These recommendations apply equally to the Senate companion (SB 645) of your bill and your predecessor bill (H#2660), together with four other bills (SB 654 by Senator Parrish, SB 414 by the Senate Committee on Ways and Means, SB 566 by Senator Salisbury, and HB 2303 by Representative Crowell). Sometimes through a different methodology mandate, each has the same impact of compromising the definition of "fair market value." As we have discussed, it is unwise to mandate any methodology by statute. The appraiser's ability to measure market dynamics should not be impaired.

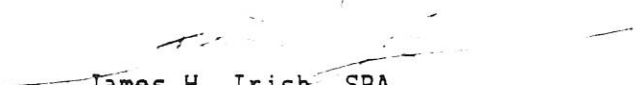
You may already have observed that the words "Property Valuation Division" might very easily read "Each state agency" while "ad valorem taxation" might easily read "its purposes" with other corresponding changes following as appropriate. This would eliminate the confusion between various Kansas statutes. Indeed, the definition of market value contained in the USPAP might be used in your bill and throughout the Kansas statutes:

MARKET VALUE - *The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:*

- 1. buyer and seller are typically motivated;*
- 2. both parties are well informed or well advised, and acting in what they consider their best interests;*
- 3. a reasonable time is allowed for exposure in the open market;*
- 4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and*
- 5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

Bob, the adoption of our recommendations will greatly assist the legislature in dealing effectively with the current public furor concerning property valuations for ad valorem tax purposes. They will prevent the future problems which are guaranteed to arise from statutory mandates for the application of specific appraisal methodologies. The legislature will have put in place demonstrable and defined criteria by which to judge compliance of the ad valorem tax system with its wishes. We appreciate your interest in this issue.

Sincerely yours,
Greater Kansas Chapter of the Appraisal Institute


James H. Irish, SRA
Kansas Certified General Real Property Appraiser No. G-48
Legislative Coordinator