

Approved: 3/25/98  
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:04 a.m. on March 10, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee: Jean Duncan, Kansas Real Estate Commission  
Karen France, Kansas Association of Realtors  
John Brugnani, Kansas Auctioneers Assn.

Others attending: See attached list

Hearing on: **HB 2880 - Real estate brokers' and salepersons' act; fees.**

Jean Duncan, Director, Kansas Real Estate Commission, appeared as a proponent of the bill. The bill was introduced to increase maximum original and renewal salespersons' and brokers' license fees provided by K.S.A. 58-3063 and to authorize transfer of \$100,000 from the real estate recovery revolving fund to the real estate fee fund. The bill also raises maximums on other fees. The caps for license fees were last raised in 1993 and the fees were raised in a two step increase and are now at the maximum. (See Attachment 1) She concluded her testimony by answering questions from the committee.

Karen France, Director of Governmental Affairs, Kansas Association of Realtors (KAR), appeared as an opponent of the bill. At the January 14, 1998, Board of Directors meeting, they voted to support an increase in license fee authority of 50% for salepersons and brokers. The Board of Directors felt that the increase in fees should be addressed in a more gradual approach than that asked for by the Real Estate Commission. The KAR does support transferring \$100,000 from the recovery revolving fund into the Commission's General Fund. (See Attachment 2) She ended her testimony by answering questions.

John Brugnani, Kansas Auctioneers Association (KAA), appeared as an opponent of the bill. They feel that no compelling reason for the statutory increase in the cap for certain fees has been noted. Proponents cite that the number of real estate licensees is declining and the increase is necessary. The KAA feels that an increase would work against solving the reduction in the number of licensees. They also are strongly opposed to any transfer of funds from the real estate recovery fund to the real estate fee fund. He stated that the fund was established with fees paid by the licensees and belongs to them and should not be used to defray the costs of the Kansas Real Estate Commission. (See Attachment 3)

No others were present to testify for or against the bill and Chairman Lane closed the hearing on **HB 2880.**

Action on: **HB 2982 - Death benefits for independent legal heirs.**

Rep. Grant made a motion to pass out the bill favorably. Rep. Crow seconded the motion.

A balloon was offered to amend the bill by adding a new section K.S.A. 44-570, and amending it in (a) by striking "~~Every~~" and adding, "*In the event that subsection (e) of K.S.A. 44-510b is inapplicable, every*". K.S.A. 44-570(a) would then read: *In the event that subsection (e) of K.S.A. 44-510b is inapplicable, every employer in the state of Kansas operating a trade or business under the provisions of the workmen's compensation act shall pay within 30 days after the award is made the sum of \$18,500 to the commissioner of insurance in every case where death results from the accident and where there are no dependents who are entitled to compensation under the workmen's compensation act.* Rep. Geringer made a motion to amend the bill as above. It was seconded by Rep. Pauls. The motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S  
Statehouse, at 9:04 a.m. on March 10, 1998.

Rep. Geringer made a motion to amend the bill on page 2, line 8 changing "\$50,000" to "\$25,000". The change would also apply on page 2, line 26 and 31. It was seconded by Rep. Mason. The motion carried on a vote of 8-7.

Rep. Grant made a motion to amend the bill on page 3, line 6 by changing the "\$4,300" to "\$5,000". It was seconded by Rep. Storm. The motion passed.

Rep. Pauls made a substitute motion to pass out the bill favorably as amended. It was seconded by Rep. Crow. The motion carried.

Chairman Lane adjourned the meeting at 9:55 a.m.

The next meeting is scheduled for March 11, 1998

**HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
GUEST LIST**

DATE: March 10, 1998

NAME	REPRESENTING
Phil Harkess	KDHR - Div. of Work. Emp.
David Shufelt	" " " "
Ruth McKinley	Legis
Jacquie Dukes	Ks. Auctioneers
John Brugnone	Kansas Auctioneers Association
BOB GRANT	KCCI
Michelle Peterson	Peterson Public Affairs Group
Callie Hill Deaton	
Susan Anderson	Heim + Weir
Heather Randall	Wh. Fred Samson PA
Dick Carter Jr.	Ks Self-Insurers Assn.
Jean Samson	KREC
Joni Wellson	Leadership Russell County -
Kay Homewood	Leadership Russell County -
Bob Smart	AIA
Jim Whitoff	KS AFL-CIO
Bill Curtis	Ks Assoc of School Bds
Wayne Maibee	Mh. AFL-CIO
Terry Deatherman	KCCI

Jane Seidel KTLA



BILL GRAVES, GOVERNOR

## KANSAS REAL ESTATE COMMISSION

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JEAN DUNCAN, DIRECTOR

TO: THE HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
FROM: JEAN DUNCAN, DIRECTOR  
KANSAS REAL ESTATE COMMISSION  
DATE: March 10, 1998  
SUBJECT: HOUSE BILL 2880

Thank you for the opportunity to testify.

The commission requested introduction of House Bill 2880 to increase maximum fees provided by K.S.A. 58-3063 and to authorize transfer of \$100,000 from the real estate recovery revolving fund to the real estate fee fund.

Original and renewal salesperson and broker fees have just been increased by regulation to the statutory maximum. The bill raises the maximum as follows:

(4) and (6) - two-year fee for salesperson (prorated original fee and renewal fee): from \$100 to \$200

(5) and (7) - two-year fee for broker (prorated original fee and renewal fee): from \$150 to \$250

(15) - six-month fee for temporary salesperson license: from \$25 to \$50

The bill also raises maximums on other fees.

- (8) - transfer fee: from \$15 to \$25
- (9) - change of company name/address - from \$7.50 to \$15
- (10) - duplicate license - from \$10 to \$15
- (11) - license certification - from \$10 to \$15
- (13) - course renewal - from \$15 to \$20
- (14) - individual course review - from \$20 to \$25

Section 2 of the bill provides for a transfer of \$100,000 from the real estate recovery fund to the real estate fee fund. The recovery fund was established in 1974 by transfer of \$200,000 from the real estate fee fund; thus its original source was "licensees' money." If the recovery fund balance drops below \$100,000, the statute provides that brokers be immediately assessed \$10 and salespersons, \$5.

*House Business, Commerce  
& Labor Committee  
3/10/98  
Att. 1*

The purpose of the fund is to reimburse persons who suffer monetary damages by actions of real estate licensees. Conditions for recovery are set out in the statute. There has to be a court judgment which the plaintiff is unable to collect. When a claim is paid, the licensee's license is automatically revoked.

The maximum payment for any one transaction is \$15,000. Since 1990 there have been four \$15,000 claims paid: one in FY-1990, FY-1991 and FY-1992; none for the next five years; and one this fiscal year. Total claims paid total \$275,125.

<u>Fiscal Year</u>	<u>Number</u>	<u>Amount</u>
1977	2	\$ 3,278
1978	1	1,034
1979	3	10,729
1980	2	18,186
1981	1	10,000
1982	0	
1983	1	17,901
1984	2	30,000
1985	7	60,452
1986	2	21,364
1987	0	
1988	1	11,693
1989	3	30,488
1990	1	15,000
1991	1	15,000
1992	1	15,000
1993-1997	0	
to date		
1998	<u>1</u>	<u>15,000</u>
	29	275,125

The recovery fund balance as of February 28 was \$288,735. Deposits to the fund come from interest, collections on assignments of judgment, and "old money" from broker's trust accounts pursuant to K.S.A. 58-3061(i).

In looking at the data, the commission feels confident that the transfer would pose no threat to consumers who may seek recovery from the fund. It seems logical to take advantage of a way to delay further fee increases to real estate licensees -- licensees who would be assessed if the fund did fall short of \$100,000.

Based on projected revenue and expenditures, our carry-over balance will continue to decrease. The commission believes it essential that we be given the capability to increase fees when necessary to ensure that we can carry out our responsibilities in the protection of the public interest. We respectfully request that you recommend the bill for passage.



Kansas Association of REALTORS®  
The Voice for Real Estate™ in Kansas

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TO: HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE  
FROM: KAREN FRANCE, DIRECTOR OF GOVERNMENTAL AFFAIRS  
DATE: MARCH 10, 1998  
SUBJECT: HB 2880, KANSAS REAL ESTATE COMMISSION FEE INCREASE

Thank you for the opportunity to testify. The Kansas Association of REALTORS® opposes the increase in license fee authority proposed by the Kansas Real Estate Commission.

At their January 14, 1998 meeting, our Board of Directors discussed the Kansas Real Estate Commission proposal to increase the license fee from \$100 to \$200 per year for salespersons and from \$150 to \$250 per year for brokers. It was the position of our directors to support an increase of 50% in their authority, rather than the 100% increase for salespersons and 66% for brokers.

The directors fully understand that this change in fee structure is purely statutory and any increases would actually be implemented by the rule and regulation making process. The Board also understands that the Commission has been faced with a declining number of licensees, as many part-timers have exited the real estate industry, while at the same time facing rising overhead costs, primarily in the form of state employee pay increases. However, the conclusion our directors came to was that the increase in fees cover these problems should be addressed in a more gradual approach. Some members felt any increases should be opposed, but that was not the prevailing motion approved by the Board of Directors.

The directors did vote to support transferring \$100,000 from the Recovery Revolving Fund into the Commission's General Fund. If used in good faith by the Commission, this transfer could reduce, delay and possibly avoid the need for fee increases. The fund is protected from going bankrupt by the authority of Commission to assess salesperson \$5 and brokers \$10 in the event the fund level dips below \$100,000. This assessment would be less than the typical fee increase increments taken by the Commission in the past.

In summary, we oppose the level of increase in fee authority requested by the Commission. The Association feels a 50% increase is sufficient for the near future. The KAR supports the transfer of money from the Recovery Revolving Fund.

Thank you for the opportunity to testify.

*House Business Commerce  
& Labor Committee  
3/10/98  
Attachment 2*

TESTIMONY OF JOHN J. BRUGNONI  
BEFORE THE BUSINESS, COMMERCE AND LABOR COMMITTEE  
ON BEHALF OF  
THE KANSAS AUCTIONEERS ASSOCIATION (KAA)  
HOUSE BILL NO.2880  
MARCH 10,1998

Chairman Lane, Ladies and Gentlemen:

Thank you for the opportunity to appear before you on behalf of the Kansas Auctioneers Association with regard to our position on Bill No.2880 which will statutorily increase the cap on certain fees charged by the Kansas Real Estate Commission.

The Kansas Auctioneers Association does not support the increase in the statutory limits on the fees assessed on real estate brokers and licensees. No compelling reason for the increase has been noted. Proponents of the increase cite that since the number of real estate licensees is declining the increases are necessary. It appears this rationale is counterproductive to increasing the number or persons seeking a professional real estate career which would negate the basis for a fees increase. Certainly the numbers entering the professional real estate ranks are daunted by its high cost. In a Multiple List (MLS) area, the cost of schools, test fees, MLS fees, local board fees, license fees, et al combine to place a \$1,000.00 or more initial expense on a prospective real estate professional. Couple this with recurring annual fees and office fees, many individuals find it just too expensive to initiate a career with so many pitfalls to success. The ability to impose higher fees, which has been done recently, will work against mitigating the reduction in the number of licensees. In effect, the Kansas Real Estate Commission, by its request exacerbates its perceived problem.

Moreover, a rationale based on fewer licensees would give rise to the notion that the work load within the Kansas Real Estate Commission would be proportionately reduced. Therefore, it would appear that certain economies would be derived from the reduction of licensees. In this era of downsizing this would not be a revolutionary concept. On the contrary, it would be considered an evolutionary concept. The Kansas Auctioneers Association believes that such an internal revisit would be concrete evidence of solidarity with Governor Graves concept of "doing more with less". This would solidify a perception that efforts are ongoing to improve customer service and constantly seek more efficiency in managing the agency without burdening the professional real estate licensee with increased fees.

The Kansas Auctioneers Association is strongly opposed to any transfer of funds from the real estate recovery fund to the real estate fee fund. The recovery fund was established in 1974 from licensee monies. Should the recovery fund fall below \$100,000, an assessment of \$10.00 per broker and \$5.00 per salesperson will be implemented to reconstitute the fund. It should be noted that this fact is taught at pre-license courses and is part of the license test. The recovery fund belongs to the licensees and must not be used to defray the costs of the Kansas Real Estate Commission. Any deletion of funds from this self supporting recovery fund will be a disservice to the Kansas consumer and the real estate professional.

*House Business, Commerce  
& Labor Committee  
3/10/98  
Att. 3*

As an alternative, The Kansas Auctioneers Association would suggest an increase in the percentage of current fees to support The Kansas Real Estate Commission. As a "fee fund" the commission receives eighty percent of fees collected. It appears that earmarking one hundred percent of the current fees received for commission would meet its current perceived ,but unsubstantiated, need. The Kansas Auctioneers Association believes this would be a win -win strategy for all concerned, especially, the consumer.