

Approved: February 10, 1998
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 5, 1998 in Room 527-S of the Capitol.

All members were present except: Representative Campbell - Excused

Committee staff present: Bruce Kinzie, Revisor of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Richard Livingston, Coalition of Kansas Appraisers
Chuck Stones, Kansas Bankers Association

Others attending: See attached list

The Chairman opened the hearing on:

HB 2763 - Release of certain mortgages and deeds of trust

Proponent submitting written testimony on **HB 2763**:

Jack A. Salava, Farm Services Agency, Manhattan, Kansas (**Attachment 1**) Chuck Stones handed out testimony from Mr. Salava for Chuck Ladner, Farm Services Agency, who requested the bill. Mr. Stones clarified that **HB 2057**, referred to in the testimony, was the number of the bill passed last year. It extended the period for release of mortgage or deed of trust to 32 years. The next to the last paragraph should read **HB 2763**. He also pointed out that they were asking for 42 years rather than the 40 years stated in the bill.

Representative Grant made a motion to amend **HB 2763** by changing the **40** to read **42** years. Representative Geringer seconded the motion. The motion carried.

Representative Grant made a motion to pass **HB 2763** favorably as amended. Representative Burroughs seconded the motion. The motion carried.

The Chairman opened the hearing on:

HB 2772 - Real estate appraisers, conducting appraisals

Proponents in favor of **HB 2772**:

Richard Livingston, Coalition of Kansas Appraisers, said that passage of the bill would level the playing field for all lenders, by requiring appraisals to be performed by licensed or certified appraisers for all loans which are to be sold into the secondary market. Licensed appraisers are subject to state and federal laws as well as standards and ethics, related to appraisal practices. The unlicensed appraisers need not follow such practices and do not fall under the jurisdiction of the State Appraisal Board. (**Attachment 2**)

Representative Hayzlett asked if there were problems with the appraisals made by non-licensed appraisers. Mr. Livingston said yes, sometimes there were problems. When asked if it were a big problem, Mr. Livingston replied no, not at this time, but they are seeing more and more problems.

Representative Geringer said he thought someone said in testimony last year that there was a shortage of licensed appraisers. Mr. Livingston said there was a licensed appraiser doing business in every county in Kansas.

Representative Burroughs asked what the cost difference was between an appraisal done by a licensed and

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS, Room 527-S
Statehouse, at 3:30 p.m. on February 5, 1998.

non-licensed appraiser. Mr. Livingston said he didn't know, but he knows of some appraisals in Johnson County being made by non-licensed appraisers for as low as \$50. When asked the charge of an appraisal done by a licensed appraiser on a \$150,000 home, he said the charge is \$300 for any single family residence.

Representative Geringer questioned where the problem was, since the next to last paragraph in his testimony noted that most banks already require appraisals that are licensed or certified by the state. Mr. Livingston said most of the banks do, banks aren't the primary problem. There's no problem with 90% of the banks in Kansas. The primary problem is with the lenders (the mortgage bankers and brokers who are selling the loans off to a secondary investor) who do not use licensed or certified appraisers.

J.J. Crowder, American Society of Appraisers, submitted written testimony in favor of **HB 2772** - **(Attachment 3)**

Opponent appearing in opposition to **HB 2772**:

Chuck Stones, Kansas Bankers Association, said they feel **HB 2772** is overly restrictive and totally unnecessary. The bill eliminates references to the Federal law and eliminates Sec. 2, d, which was placed in the original legislation to eliminate any confusion regarding the State's policy concerning the use of a certified or licensed appraiser. He clarified that since a law was passed a couple of years ago, mortgage brokers now fall under the jurisdiction of the banking department. **(Attachment 4)**

Representative Correll asked if in-house appraisals, where the appraisal is done by someone other than a licensed appraiser, can now be made by banks. Mr. Stones said yes, if it falls within the Federal guidelines and the loan is less than \$250,000. It must be made by an uninterested person, one not making the loan. Judi Stork, Office of the Bank Commissioner, added that it must be signed by two parties that are uninterested.

Representative Humerickhouse asked if it were correct that most banks were charging \$300 for an appraisal. Mr. Stones said he believed that was correct.

Representative Welshimer said a law went into effect a couple of years ago, which was requested by KBA, that allows the bank officer or director to charge any amount they want to for an appraisal. She asked what was being charged by bank employees, who are not appraisers, to do appraisals. Mr. Stones said he had no idea. Judi Stork, said as far as she knew, there's no regulation in the banking code that says a bank employee can charge for an appraisal, and she was not aware of any of the banks charging for appraisals done by non-licensed bank employees.

Representative Burroughs asked if there was a time frame within which the secondary market would accept the initial appraisal. Mr. Stones said it was determined by the secondary market and he wasn't sure what the time frame was. Representative Humerickhouse said it was normally one year.

Representative Welshimer said that Nebraska has mandatory licensing for all appraisers and asked if Mr. Stones knew if they were having problems placing loans in the secondary market as a result of it. Mr. Stones said he couldn't imagine that they were. He also noted that currently every loan made into the secondary market in Kansas is being appraised by a licensed appraiser. The secondary market has this requirement, whether there is a state law or not.

The Chairman close the hearing on **HB 2772**.

The meeting adjourned at 4:09 p.m.

The next meeting is scheduled for February 10, 1998.



United States
Department of
Agriculture

Farm
Service
Agency

Kansas State FSA Office
3600 Anderson Avenue
Manhattan, Kansas 66503-2511
785 587-8709 FAX 785 537-9659

February 5, 1998

TO: Representative Ray Cox
Chairman and Member of the House
Financial Institution Committee

FROM: Jack A. Salava, Acting State Executive Director

A handwritten signature in cursive script that reads "Jack A. Salava".

SUBJECT: Expiration of Mortgages

House Bill 2057 voids all mortgages filed of record if 32 years have elapsed and the owner of the mortgage has not filed an affidavit.

This Bill will create a problem for the Farm Service Agency (FSA,) formerly doing business as Farmers Home Administration, United States Department of Agriculture, United States of America. FSA routinely makes long term real estate loans over a period of 40 years. We also guarantee loans of other ag lenders for up to 40 years. We would guesstimate that we have approximately 7,000 mortgages filed of record across the state that would require an affidavit to be filed, if House Bill 2057 is not amended to allow 40 or 42 year mortgages. This would be a great undertaking for our Agency. We also fear that we will miss filing an affidavit of record, resulting in a lapse of secured position and ultimately a loss of money to the American taxpayer.

We plead with you to amend House Bill 2057 on behalf of Farm Service Agency to allow mortgages over a period of 42 years. Thank you for your consideration.

If you have any questions, please contact Charles W. Ladner, Farm Loan Programs Director, Farm Service Agency.

House Financial Institutions

2-5-98

Attachment 1

February 5, 1998

To: House Committee on Financial Institutions

From: Richard Livingston
Coalition of Kansas Appraisers

Re: House Bill 2772

House Bill 2772 is presented to help level the playing field for lenders and appraisers. Currently not all loans which are sold into the secondary market require an appraisal by a licensed or certified appraiser. Neither state nor federal law require appraisals by licensed or certified individuals if the loan amount is under \$250,000, and only then if the loan is federally-related.

The new fast track system offered by Freddie Mac allows the lender to do a computer generated survey of a market area and then base the loan on the model. No physical inspection of the house is performed.

House Bill 2772 would level the playing field for all lenders by requiring appraisals to be performed by licensed or certified appraisers for all loans which are to be sold into the secondary market.

The second leveling effect is related to the first, stopping unlicensed persons from doing these valuations. After completing the required 2000 hours of experience and 165 hours of education which are required by the State Appraisal Board, appraisers found that by becoming licensed they subjected themselves to all state and federal laws, as well as standards and ethics, related to appraisal practices. However, the unlicensed person who is performing appraisals in the same area does not need to follow any such practices and does not fall under the jurisdiction of the State Appraisal Board which was set up to govern the practice.

In our discussions with Appraisers and Bankers in the state, it is our understanding that most banks already require appraisals and also require that the appraiser be licensed or certified by the state. However, we also hear the complaints of these same professionals when they are forced to compete in a market where unfair and unsound practices are being used in an attempt to gain market share.

In conclusion, we are fortunate in Kansas to have professionals, in the field, in our banks and on the Appraisal board who feel it necessary to follow all the standards and ethics required by state law. We feel that the public deserves the protection offered by this bill.

House Financial Institutions
2-5-98
Attachment 2

ASA

Thursday, February 05, 1998

To: House Committee of Financial Institutions

From: J J Crowder, ASA, 1st Vice President, American Society of Appraisers,
Kansas City Chapter #101

Re; House Bill No. 2772

Gentlemen and Ladies of the Finance Committee:

Due to the press of lower interest rates and the lack of notice, the members of the American Society Of Appraisers, Kansas City Chapter #101 were unable to attend today. This is a local chapter of a national professional organization of appraisers, real estate and other disciplines.

However, I can say that the membership endorses this bill. They believe that it goes a long way to protecting both the public at large and the individual consumer.

With the wide range of mortgage types being marketed, and the speed with which the consumer is expected to make one of the most important decisions of his life, we believe the public individual needs the best appraisal services he can obtain. This means not only an appraisal performed by an knowledgeable certified and licensed appraisal, but the consumer needs to know that there is a process supported by the law for any mal-practice.

Due to publicity over the last ten years, the consumer still believes that he is protected when purchasing an appraisal service by the licensing of the state. However with the lessening of standards due to the installation of the under \$250,000 and \$1,000,000 loan limits, the public no longer can be assured of getting what they believe they are purchasing. This bill would ensure a minimum of education, and more importantly give the public what they now believe they have-a regulatory agency that insures that the appraisal services purchased have conformed to professional standards and accepted appraisal practices.

Please endorse this bill and send it forward.

Sincerely yours,
JJ Crowder, ASA
Vice President

Kansas City Chapter #101

JJ Crowder ASA
K-161 - K'S

House Financial Institutions
2-5-98
Attachment 3

Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

785-232-3444 Fax - 785-232-3484 e-mail - kbacs@ink.org

TO: House Financial Institutions Committee
FROM: Chuck Stones, Director of Research

RE: HB 2772

Mr Chairman and Members of the Committee:

Thank you for the opportunity to appear before you regarding HB 2772. HB 2772 is totally unnecessary. It is so unnecessary that we are skeptical regarding the real purpose behind the proposal. Especially when the bill eliminates references to the Federal law and eliminates Sec. 2, d, which was placed in the original legislation to eliminate any confusion regarding the States policy concerning the use of a certified or licensed appraiser.

We strongly feel HB 2772 is an overly restrictive requirement. For all practical purposes, at the current time this legislation would not impact the way real estate transactions are conducted. Buyers of loans in the secondary market currently require licensed appraisals. We feel that the requirements of the secondary market should be governed by itself, not by a group of appraisers. While this doesn't affect our current business practices, the secondary market is a very broad term and arena. This could affect future business practices if a current or new secondary market participant would not require a certified appraisal. If this were to occur, this bill would cause increased costs and time delays. We believe the markets themselves should be able to determine their own requirements.

Appraisals done for banks, either by licensed or non-licensed personnel, are subject to guidelines set forth by the FDIC and the State Banking Department. These appraisals are subject to review during a bank examination. They and we feel this structure adequately protects the customer and the FDIC from faulty appraisals. Appraisal fees are, in almost all cases, passed on to the customer in real estate transactions as a closing cost. The recommended deletions further restrict federal guidelines and place undue burden on the banks and unnecessary costs on our customers. We would hate to see these fees increase for our customers.



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Attachment 4