

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary Hayzlett at 1:30 p.m. on February 20, 2003 in Room 519-S of the Capitol.

All members were present except:

Representative Mary Kauffman, excused
Representative Roger Toelkes, excused

Committee staff present:

Bruce Kinzie, Revisor
Hank Avila, Legislative Research Dept.
Mary Galligan, Legislative Research Dept.
Betty Boaz, Committee Secretary

Conferees appearing before the committee:

Gary Rosewicz, Marshall County Engineer
Randall Allen, Executive Director, KS Ass'n. of Counties
Evan Ice, Douglas County Counselor
Keith Browning, Douglas County Engineer
Sheila Walker, Director, Motor Vehicle Division
Chuck Henry, Treasurer, Wyandotte Unified Government
Martha Neu Smith, KS Manufactured House Association
Mark Beck, Director, Property Valuation Division

Others attending:

See attached list

Hearing on HB 2135 - Roads and highways, county roads

Chairman Hayzlett opened the hearing on **HB 2135** by introducing Gary Rosewicz, Marshall County Engineer, who explained the bill. (Attachment 1) According to Mr. Rosewicz this bill would update the name of the board of highway commissioners (a term no longer in use) to the township board. The bill would also prohibit the board of county commissioners or board of township trustees from renting or hiring county or township machinery for any private purposes. Existing law allows such practice for road clearing purposes only.

The next proponent was Randall Allen, Executive Director with the Kansas Association of Counties. (Attachment 2) Mr. Allen said a committee comprised of county highway officials and Larry Emig, KDOT Director of the Bureau of Local Projects, have met numerous times for the purpose of identifying 1) statutes which duplicate other statutes 2) obsolete statutes and 3) statutes that contain language no longer relevant in the modern era. Mr. Allen concluded by saying **HB 2135** is the work product of that effort. He also asked the Committee to make a technical correction in Section 3 of the bill which indicated certain sections of KSA 68-124 should be repealed when in fact these sections should be amended.

There being no other proponents and no opponents, following discussion the Chairman closed hearings on **HB 2135**.

HB 2150 - Township roads; traffic-control devices

The Chairman introduced Evan Ice, Douglas County Counselor, who said the purpose of this bill is to harmonize conflicting statutory provisions relating to traffic signs along township roads. (Attachment 3) He said **HB 2150** will codify what they believe is the general approach in Kansas and will resolve the ambiguities. Townships will have the responsibility and authority to post and maintain traffic control devices along township roads. Regulatory signs, however, must comply with resolutions of the board of county commissioners.

CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE at on February 20, 2003 in Room 519-S of the Capitol.

The next proponent was Keith Browning, Douglas County Engineer. He said his purpose in being there was to urge support of **HB 2150** concerning the authority and responsibility of townships to install and maintain traffic control signs on township-maintained roads in counties not operating under the county road unit system. (Attachment 4) The proposed legislation clarifies the Kansas Statutes regarding the authority of townships to install and maintain signs. Currently, the statutes are confusing in that different statutes seem to conflict with each other. The proposed legislation (with suggested revisions) clarifies the lines of authority regarding the placement of signs on township roads.

The last proponent was Randall Allen, Executive Director, KAC. (Attachment 5) According to Mr. Allen, the Kansas Association of Counties was there to express support for **HB 2150** which clarifies that in counties that have not adopted the county unit road system, townships have the responsibility and authority to place and maintain traffic control devices (including guidance and warning signs, and regulatory signs) on township roads under the jurisdiction of the township. This position was adopted by the Association's full membership at their annual conference last November and reflects their desire to clarify the township board's role and the county's role, within their respective capacity to fulfill those roles.

There were no additional proponents and no opponents so the Chairman closed the hearing on **HB 2150** following discussion.

HB 2189 - Renewal of registration of certain vehicles

Chairman Hayzlett introduced Representative John Ballou who said the sole purpose of this bill is making certain license plate expiration dates and renewal dates be changed so that the owners of these vehicles will actually have a chance to renew their plates before they expire. (Attachment 6) He explained that the problem was the renewal sticker for these plates are not available until Jan. 2nd. He concluded by saying the 16m vehicles plates would now need to be renewed by March 1 and stickers for renewal would be available on Jan. 2, giving owners two months to renew.

Sheila Walker was the next to speak in favor of **HB 2189**. She said every year between January 1 and February 15 she gets calls from various constituents who have been pulled over by law enforcement officers because of driving on expired tags but their grace period by law carried them over until February 15. This bill will extend the grace period a couple more weeks - to the end of February so that they can give them a February decal to prevent law enforcement from pulling them over. She said they would like to see this on the Consent Calendar because she would like to see this go through without having anyone trying to increase registration fees.

When Chairman Hayzlett asked if there were any more proponents, Chuck Henry, Treasurer Wyandotte Unified Government spoke. He said last week when this was brought up before the county treasurers they were thrilled. The county treasurers support **HB 2189**.

There were no additional proponents and no opponents so the Chairman closed the hearing on **HB 2189**.

The Chairman called for final action on **HB 2135**. Representative Wilk made a motion to pass this bill out with a second by Representative Huff. The motion carried.

The Chairman called for final action on **HB 2150**. Representative Yonally made a motion to amend as follows: on page 1, in line 27, by striking "and guidance and warning signs" and inserting "other than regulatory signs"; in line 30, by striking all following "tion"; in line 31, by striking "county" and inserting "consistent with resolutions of the board of county commissioners of the county in which the township road is located. For this purpose, regulatory sign is a sign setting forth a regulation, the violation of which subjects the operator of the motor vehicle to fine, imprisonment, or both"; in line 35, preceding the period, by inserting "but the board of county commissioners shall have no obligation to do so"; Representative Davis seconded the motion and the motion to amend carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE at on February 20, 2003 in Room 519-S of the Capitol.

seconded the motion and the motion carried.

Chairman Hayzlett then called for final action on **HB 2189**. Representative Vickrey made a motion to pass out favorably and be put on the Consent Calendar. Representative Jack seconded the motion and the motion carried.

The Chairman then called for final action on **HB 2157**. The Chairman had asked the proponents and opponents to work together and clear up some points. The first to speak was Chuck Henry, Treasurer of Wyandotte County Unified Government. (Attachment 7) Mr. Henry explained that he and Mike Billinger, Ellis County Treasurer, had met with opponents of the bill and presented some amendments. Mr. Henry said he and Mr. Billinger thought these amendments to the bill might answer some of the questions asked by the Committee and some of the challenges brought up by the opponents to the bill. He stood for questions from the Committee.

Chairman Hayzlett then introduced Martha Neu Smith, Kansas Manufactured Housing Association who said they still have major issues i.e. all taxes have to be paid when the home is moved regardless of whether they are due or not. Also there is no provision in the bill for eviction. If a park owner evicts a home and the taxes have not been paid, that home can not be moved. It does transfer the responsibility of property tax collection from the county to the transporter and, she asked, what other private business has the responsibility to make sure that the property taxes are collected before they do business with the company. She listed several other issues that had not been resolved. She concluded with the fact 75% of their homes are never moved once they are sited and these are just some of their remaining concerns.

Mark Beck, Director of Property Valuation Division, Dept. of Revenue, said there are laws on the books that state the due dates and that any property moving out of Kansas, does not specify mobile homes, the taxes are due and owing immediately. It is not transferring responsibility anywhere, such as to transporters, it is just a responsibility of business that you have certain papers. He said there were other issues such as out-of-state owners not being available. He went on to say that every dollar of tax that is not paid that is due and owing is shifted to someone else. This is just a normal property tax procedure.

Representative Humerickhouse made a motion to table this bill due to the issues still unresolved. The motion was seconded by Representative Ballou and the motion carried.

There being no further business the meeting was adjourned. The next meeting will be Monday, February 24, 2003.

Testimony of Gary Rosewicz
Before the House Transportation Committee
Regarding House Bill 2135
February 20, 2003

Representative Gary K. Hayzlett, Chair

Representative Hayzlett and members of the House Transportation Committee, my name is Gary Rosewicz. I am a licensed professional engineer in Kansas and have served as the Marshall County Engineer since 1995. I have been employed as an engineer in Kansas county government since 1982.

I am here today, representing the Kansas County Highway Association, to ask your support in the passage of House Bill 2135. This bill is the product of nine months of work by members of the Association in cooperation with the Kansas Department of Transportation and the Kansas Association of Counties to update and simplify statutes dealing with county and township roads and bridges.

Sec. 1 of the bill would amend K.S.A. 68-124 by replacing the title of the township "board of highway commissioners", a term no longer in use, with "township board", a term by which they are commonly referred to today.

Sec. 2 would simplify the language of K.S.A. 68-141a by stating that no machinery owned by a county or township will be rented or hired out for any private purpose.

I would request a change in Sec. 3 to delete K.S.A. 68-124 and K.S.A. 68-141a which were inadvertently included. The remaining statutes, K.S.A. 68-137, 68-138, 68-151b, 68-151c, 68-151d, 68-151e, 68-151k, 68-159, 68-160 and 68-166, would be repealed due to more recent legislative acts which have made them obsolete.

I would like to thank you for the opportunity to speak to you today and ask you to pass House Bill 2135 out of committee.

I would be happy to answer any questions you may have.



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning House Bill No. 2135
**re. Recodification and Cleanup of County and
Township Highway Statutes**
House Transportation Committee

Presented by Randall Allen, Executive Director
Kansas Association of Counties
February 20, 2003

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to express support for HB 2135, which culminates a long process of meetings and discussions involving county highway officials and KDOT to cleanup and recodify statutes concerning county and township roads.

Over the past year, a committee comprised of informed county highway officials and Larry Emig, KDOT Director of the Bureau of Local Projects, has met numerous times for the purpose of identifying 1) statutes which are duplicative of other statutes, 2) obsolete statutes, and 3) statutes that contain language no longer relevant in the modern era. HB 2135 is the work product of that effort.

Gary Rosewicz, Marshall County Engineer representing the Kansas County Highway Officials Association, has been a part of the committee reviewing these statutes and he will address specifics in his testimony. In addition, the membership of the Kansas Association of Counties unanimously adopted a policy statement at our annual meeting last November, asking the Legislature to recodify these statutes.

I would ask the committee to make a technical correction in Section 3 of the bill which (as written) indicates repeal of K.S.A. 68-124 and K.S.A. 68-141a, but which are actually amended in Sections 1 and 2 of the bill and should not be repealed. With these corrections, we urge the committee to report the bill favorably for passage. Thank you.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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House Transportation
Date: 2-20-03
Attachment # 2

MEMORANDUM

To: The Honorable Gary Hayzlett, Chair
House Transportation Committee

From: Evan H. Ice, Douglas County Counselor

Date: February 20, 2003

Re: House Bill 2150

Honorable Chair, Members of the Committee: My name is Evan Ice, the Douglas County Counselor and I am providing this testimony on behalf of Douglas County. We appreciate the opportunity to speak to you today in favor of House Bill 2150.

I. Purpose of Bill.

The purpose of this Bill is to harmonize conflicting statutory provisions relating to traffic signs along Township Roads.

A. Background.

In Kansas, counties have an option of adopting the "county unit road system." If a county adopts the county unit road system, then the county is generally responsible for maintaining all roads in the unincorporated areas of the county (other than state highways). If the county does not adopt the county unit road system, then the county is responsible for maintaining certain roads in the unincorporated areas of the county and the townships are responsible for maintaining the other, less traveled, roads. Roads for which the township is responsible are generally referred to as "township roads." K.S.A. 68-526 provides in part as follows:

"In all counties not operating under the county road unit system the township board shall have the general charge and supervision of all township roads and township culverts in their respective townships. . . ."

B. Traffic Control Devices on Township Roads.

In Douglas County, and we believe in most other counties not operating under the county unit road system, the county has installed and maintained "regulatory signs" (i.e. speed limits, no parking, and stop signs) along township roads and the township have installed and maintained warning signs (i.e. signs warning motorists of upcoming travel hazards) and guidance signs (i.e. signs providing directions to motorists). The county has taken charge of the regulatory signs because townships do not have statutory or home rule authority to pass traffic regulations. In addition, setting speed limits and stop signs

often requires a traffic study of some nature, which townships are generally not prepared to provide. Also, townships do not have enforcement personnel.

C. The Statutory Conflict.

The statutory conflict is addressed in Attorney General Opinion No. 97-25. In that Opinion, the Attorney General interpreted the Uniform Act Regulating Traffic, which is located in Chapter 8 of Kansas Statutes Annotated. The Attorney General concluded that a township does not fall within the definition of "local authority" and has no authority to erect or maintain traffic control signs along township roads.

Attorney General Opinion No. 97-25, however, begs the question as to the proper interpretation of K.S.A. 68-526, which provides that townships have general charge and supervision of township roads. In *Finkbiner v. Clay County*, 238 Kan. 856 (1986), the Kansas Supreme Court seemed to conclude that K.S.A. 68-526 makes townships responsible for signage along township roads. In Attorney General Opinion No. 97-25, however, the Attorney General concluded that the Supreme Court did not make a distinction between maintaining roads and posting and maintaining signs. As a result, the Attorney General believes that the Supreme Court will reach a different conclusion if that specific issue is presented.

D. The Problem.

Because of this conflict, it is currently unclear who has the responsibility and authority to maintain traffic control devices along township roads in counties that have not adopted the county unit road system. Historically, townships have done so, but the Attorney General has called this practice into question. If an accident occurs along a township road as a result of improper signage, plaintiffs can now sue both the township and the county. The township will point its finger at the county and the county will point its finger at the township.

E. The Proposed Solution.

House Bill 2150 will codify what we believe is the general approach in Kansas and will resolve the ambiguities discussed above. Townships will have the responsibility and authority to post and maintain traffic control devices along township roads. Regulatory signs, however, must comply with resolutions of the board of county commissioners.

II. Suggested Revision to House Bill 2150.

Although Douglas County is in favor of House Bill 2150, we do have a suggested revision. As currently proposed, the Bill authorizes townships to place and maintain "traffic control devices" on township roads. The term "traffic control devices" includes "regulatory signs" such as speed limits and stop signs. This could be interpreted to authorize townships to set speed limits, the location of stop signs, and impose other traffic regulations, something that townships have never had statutory or home rule authority to do before. As noted above, we

believe that the county should adopt the actual regulatory regulations. The township would then install and maintain the regulatory sign in accordance with the county resolution.

A second minor revision to Bill 2150 includes a clear statement that the county has no obligation to install traffic control devices along township roads, even if the county believes that the township signage is inadequate. The main issue here is to prevent counties from being sued for inadequate signage—one of the main purposes of this Bill.

As a result, we propose the following revision to lines 25 through 31 of the Bill (amending K.S.A. 8-2005(c)):

(c) In townships located in counties not operating under the county road unit system, the township board shall place and maintain traffic-control devices, other than regulatory signs, on township roads under the board's jurisdiction. In addition, such township shall place and maintain regulatory signs on township roads under the board's jurisdiction consistent with resolutions of the board of county commissioners of the county in which the township road is located. For this purpose, a regulatory sign is a sign setting forth a regulation, the violation of which subjects the operator of the motor vehicle to fine, imprisonment, or both.

Nothing in this subsection shall be construed as precluding the board of county commissioners from placing and maintaining traffic-control devices on township roads if the board of county commissioners determines that traffic control devices or signs placed by a township are inadequate, but the board of county commissioners shall have no obligation to do so.

III. Conclusion.

I appreciate the opportunity to present the foregoing testimony. If you have any questions or need further information, please don't hesitate to let me know.

Evan H. Ice
Stevens & Brand, L.L.P.
P.O. Box 190
900 Massachusetts, Ste, 500
Lawrence, KS 66044

Testimony of Keith Browning
Before the House Transportation Committee
Regarding House Bill 2150
February 20, 2003

Representative Gary K. Hayzlett, Chair

Representative Hayzlett, and members of the House Transportation Committee, my name is Keith Browning. I am a licensed professional engineer in Kansas, and have been employed as the Douglas County Public Works Director and County Engineer since 1998. Prior to my current position, I served as Chief Design Engineer for Douglas County Public Works for seven (7) years. In all, I have worked for sixteen (16) years in an engineering capacity for county governments in Kansas.

I am here today to urge you to support House Bill 2150 concerning the authority and responsibility of townships to install and maintain traffic control signs on township-maintained roads in counties not operating under the county road unit system. The Kansas Association of Counties has included this issue in its platform for the previous four years (it appears on Page 21 of the KAC 2003 Legislative Platform Statement), and urges you to support this legislation.

The proposed legislation clarifies the Kansas Statutes regarding the authority of townships to install and maintain signs. Currently, the statutes are confusing in that different statutes seem to conflict with each other. K.S.A. 68-526 gives a township board "the general charge and supervision of all township roads".

House Transportation
Date: 2-20-03
Attachment # 4

K.S.A. 8-2005 stipulates that “local authorities” are responsible for placing and maintaining traffic control devices upon roadways under their jurisdiction. However, K.S.A. 8-1432 does not include townships in the list of “local authorities”. There have been two Attorney General opinions indicating that townships do not have the authority to install or maintain signs, and that their doing so constitutes a “public nuisance”. However, at least once the Kansas Supreme Court has ruled that a township was negligent for not installing a warning sign upon a township road. Clearly, there is confusion.

In the thirty six (36) counties that do not operate under a county unit road system, it is typical that the county installs and maintains signs on county routes and townships install and maintain warning and guide signs on township maintained roads. Townships also will typically install and maintain regulatory signs that have been authorized by the Board of County Commissioners. It is typical for the county to provide technical assistance to the townships concerning the placement of signs on township roads.

In Section II of his written testimony, Evan Ice, Douglas County Counselor, has proposed revised language to HB 2150. I strongly support the suggested revisions since they help more clearly define the responsibilities and authority of counties and townships regarding installation of signs on township roads. I ask the Committee to consider the requested revised language.

The proposed legislation (with suggested revisions) clarifies the lines of authority regarding the placement of signs on township roads. The Kansas Association of Counties urges the committee to pass out of committee House Bill 2150.

I stand for questions.



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning House Bill No. 2150
re. Township Road Traffic Control Signs
House Transportation Committee

Presented by Randall Allen, Executive Director
Kansas Association of Counties
February 20, 2003

Mr. Chairman and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to express support for HB 2150, which clarifies that in counties that have not adopted the county unit road system, townships have the responsibility and authority to place and maintain traffic control devices (including guidance and warning signs, and regulatory signs) on township roads under the jurisdiction of the township. This position was adopted by our full membership at our annual conference last November, and reflects a desire to clarify the township board's role and the county's role, within their respective capacity to fulfill those roles.

We understand that 69 counties have adopted a county unit road system, and so HB 2150 would affect 36 counties and the signage on township roads within those 36 counties. The Attorney General in Opinion No. 97-25 concluded that townships have no authority to erect or maintain traffic control signs along township roads, even though K.S.A. 68-526 provides that in counties not operating under a county unit road system, "the township board shall have the general charge and supervision of all township roads..." We believe it is important for the Legislature to clarify who has the responsibility and authority to maintain traffic control devices along township roads.

HB 2150, along with some amendments that will be offered in testimony by the Douglas County Counselor, will clarify the present ambiguity about the location of responsibility for traffic control signs on township roads, and will certainly work to improve the safety on these roads.

We urge the committee to report HB 2150 favorably for passage. Thank you.

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House Transportation
Date: 2-20-03
Attachment # 5

STATE OF KANSAS

HOUSE OF
REPRESENTATIVES

REPRESENTATIVE, 43RD DISTRICT
EDGERTON, GARDNER
OLATHE AND SPRINGHILL

ROOM 330-N
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JOHN BALLOU
SPEAKER PRO TEM

Thank You MR. Chairman and members of the committee for allowing me to testify on HB 2189;

The sole purpose of this bill is making certain license plates expiration date and renewal date be changed so that the owners of these vehicles will actually have a chance to renew their plates before they expire. Let me explain, currently some plates expire on Dec. 31; the problem is the renewal sticker for these plates are not available until Jan. 2. Many of these vehicles are pick-up trucks that have a 16m plate and above. Some other examples are Boats, busses, and Trailers, except RV trailers. RV trailers currently are renewed at the same time the owners would be renewing their other vehicles. The 16m vehicles plates would now need to be renewed by March 1 and stickers for renewal would be available on Jan 2, giving owners two months to renew. Thank you for your consideration of HB 2189 and I would be happy to stand for questions.

A handwritten signature in cursive script that reads "John Ballou". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

House Transportation
Date: 2-20-03
Attachment # 6

House Bill No. 2157

AN ACT relating to property taxes on mobile and manufactured homes; concerning obligations at the time of purchase, sale or moving.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Any person who sells or otherwise transfers title to a mobile home or manufactured home, **as defined by K.S.A. 58-4202, and amendments thereto**, which is ~~subject to the provisions of K. S. A. 79-340, and amendments thereto, and which is~~ located in this state, shall provide the purchaser or transferee thereof with a certificate of taxes paid on a form prescribed by the director of **property valuation** ~~vehicles~~ and issued by the county treasurer of the county in which the mobile home or manufactured home is situated, showing that all property taxes on the mobile home or manufactured home have been paid in full. **Where the mobile home or manufactured home is not subject to a tax because it first acquired a tax situs in the county after January 1 of the tax year, the county treasurer shall indicate on the certificate of taxes paid that no tax is due.**

(b) The purchaser or transferee of any mobile home or manufactured home **to be located** purchased in this state shall make application for a new title with the county treasurer of the county in which the mobile home or manufactured home is to be located in accordance with K.S.A. 58-4204, and amendments thereto, and provide the county treasurer with a copy of the certificate of taxes paid, **if required**.

(c) **Before** ~~Any person~~ moving a mobile home or manufactured home, **the owner** shall be required to obtain a certificate of taxes paid from the county treasurer of the county in which the mobile home or manufactured home is situated ~~prior to the move~~. The **owner shall notify the** county treasurer ~~and county appraiser shall be notified~~ of the destination of the mobile home or manufactured home. No mobile home or manufactured home shall be moved along the high-ways of this state, or along any city or county road, unless the person moving the mobile home or manufactured home has in such person's possession a certificate of taxes paid. Whenever a mobile home or manufactured home is moved from one county to another within this state, or out of this state, the total tax for the year becomes due and payable to the county where the mobile home was located on January 1 of that year. The county treasurer of that county shall issue a certificate of taxes paid reflecting the payment of all taxes due.

(d) Whenever a mobile home or manufactured home is moved into this state or to another county within this state, the owner shall notify the county treasurer ~~and county appraiser~~ of the county in which the mobile home is located within 30 days. The owner shall provide the county treasurer ~~and county appraiser~~ of the new location and mailing address for the mobile home or manufactured home. If the mobile home or manufactured home enters this state after January 1, no property tax is due for that year.

(e) **A certificate of taxes paid shall not be required when a mobile home or manufactured home is moved:**

- 1. between a manufacturer and a licensed dealer,**
- 2. between two licensed dealers,**
- 3. between a licensed dealer's place of business or storage area and a bona fide customer to whom title has passed or will pass within a reasonable time after movement,**
- 4. from outside this state to a destination either in or outside this state, or**

5. from one location in the county to another location within the same county, or
6. as a valueless mobile home pursuant to K.S.A. 58-4213, and amendments thereto.

(f) When required by this act, any person failing Failure to obtain a certificate of taxes paid, showing all taxes due have been paid, prior to moving a mobile home or manufactured home, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500 subject to a penalty in the amount of \$500, payable to the county where notification was required and/ or where taxes were due and owing.

(g) The provisions of this section shall be a part of and supplemental to the Kansas manufactured housing act.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.