

Approved: SRB 3/17/07
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:12 A.M. on March 13, 2007 in Room 231-N of the Capitol.

All members were present except:

Brenda Landwehr- excused
Charles Roth- excused
Kasha Kelley- excused
Mario Goico- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Duston Slinkard, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Luke Bell, Director of Governmental Relations, Kansas Association of Realtors
Sherry C. Diel, Executive Director, Kansas Real Estate Commission

Others attending:

See attached list.

The Chairman advised the committee of the changes in the Agenda and then opened the hearing on **HB 2561 - Licensure of real estate brokers and salespersons.**

Luke Bell, Director of Governmental Relations, Kansas Association of Realtors testified as a proponent of **HB 2561 (Attachment 1)**. First, he said the bill would change the qualifications for obtaining a real estate license to eliminate the six-month temporary salesperson license and the 30-hour post-license course. **HB 2561** would require the applicant to take a 30-hour pre-license course, a 30-hour practice course and pass the real estate examination all before applying for the real estate license. Second, he said the bill would require all out-of-state real estate licensees who apply for real estate license in the state of Kansas to pass the Kansas portion of the real estate license examination and complete a practice course related to Kansas-specific real estate law.

Sherry C. Diel, Executive Director, Kansas Real Estate Commission testified as a proponent of **HB 2561 (Attachment 2)**. Sherry mentioned the one-time expenditure for programming the licensing databases to be paid from KSIP funds. Changes in Section 4, pages 8-9 would authorize the Commission to deny use of a business or trade name if it is misleading or confusing to the public. Section 7 addresses the issue of what happens to the licenses of salespersons or associate brokers who are employed or associated with a supervising broker or branch broker whose license expires or is suspended or revoked. Section 11 would prevent a broker who is suspended or revoked from personally finalizing any closings. Her testimony also included a request for an amendment to be added which would allow the Commission's records to reflect that a licensee had a disciplinary action rather than that it was expired.

Representative Grange asked how many new Realtors are licensed annually. Sherry replied 1,700. In the last 5 years the number of Realtors has grown by 5000. We are projecting a slight decrease this year. How long is a license good for? Two years. How many out-of-state applications are received? We receive 3 or 4 a day from Missouri.

Representative Ruiz asked a question about Section 8, page 13. Can you give me an example of public interest as mentioned in the bill? When a broker is revoked it is best because of the pending transactions to have another broker who is willing to go in and run the existing business and then close it down.

The Chairman asked about Section 10, page 13, who does the notice go to? Sherry replied that the broker is supposed to make the notices to the clients and customers. That is not a list of people who came to an open house or people who have been shown a house is it? No, it applies to those who have signed an agreement with the broker.

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:12 A.M. on March 13, 2007 in Room 231-N of the Capitol.

The Chairman asked what happens on the day the license is revoked. Do you already have someone ready to step in and take over the existing business? Usually not, because the person being revoked has a right to a hearing. Would there be a gap of time here in which the agents would not have authority to negotiate on behalf of their clients. There is a chance that a gap will exist and it will probably exist under this bill also but we are trying to have more authority to deal with it. This bill would give you the authority to potentially eliminate that gap? Yes, but we still could not do it until we knew whether the person requested a hearing or not. If they request a hearing then they can continue to operate until a decision for revocation of their license.

The Chairman asked if there were any other proponents, opponents or neutral on **HB 2561**, There being none the hearing was closed.

The Chairman adjourned the meeting at 9:42 A.M.

COMMERCE & LABOR COMMITTEE
DATE: 3-13-07

NAME	REPRESENTING
ED JASKINIA	THE ASSC. LAWYERS OF KS
Kathy Hamilton	visitor
Linda Brummett	Visitor



To: House Commerce and Labor Committee
From: Luke Bell, KAR Director of Governmental Relations
Date: March 13, 2007
Subject: **HB 2561** – Changes to the Licensure of Real Estate Salesperson and Brokers and Technical Changes to the Real Estate Licensure Statutes

Chairman Brunk and members of the House Commerce and Labor Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® (KAR) to offer testimony in support of **HB 2561**. KAR is a trade association which has faithfully represented the 10,000 real estate professionals in the state of Kansas for over 85 years.

KAR applauds the Kansas Real Estate Commission (KREC) for introducing this legislation to strengthen the licensing and education requirements for real estate licensees in the state of Kansas. As the real estate industry continues to evolve and become more complex, we feel that it is absolutely necessary to continually update and strengthen the requirements for licensure to ensure that consumers are provided with quality service by qualified and professional individuals. **HB 2561**, which would be a major step forward in strengthening the licensing and education requirements for real estate licensees in the state of Kansas, contains two major substantive modifications to current real estate licensing law.

First, **HB 2561** would change the qualifications for obtaining a real estate salesperson's license to eliminate the six-month temporary salesperson license and the 30-hour post-license course. Currently, in order to obtain a real estate salesperson's license, an individual is required to pass the real estate examination, complete a 30-hour pre-license course and complete a 30-hour post-license course within six months of the issuance of a temporary license. However, **HB 2561** would require the applicant to take a 30-hour pre-license course, a 30-hour practice course (also pre-license) and pass the real estate examination all before applying for the real estate salesperson's license. These changes are absolutely necessary to ensure that individuals receive all the necessary education and training before they are allowed to provide real estate services to members of the public.

Second, **HB 2561** would require all out-of-state real estate licensees who apply for real estate licenses in the state of Kansas to pass the Kansas portion of the real estate examination and complete a practice course related to Kansas-specific real estate law. Specifically, **HB 2561** would require that an applicant for a salesperson license complete a 30-hour practice course (the exact same requirement for Kansas residents) and pass the Kansas portion of the real estate examination. **HB 2561** would require that an applicant for a broker's license complete a four-hour course on Kansas-specific real estate law and complete the Kansas portion of the real estate examination. This will ensure that out-of-state licensees who wish to provide real estate services in the state of Kansas will be knowledgeable about and follow Kansas-specific real estate law.

In closing, KAR would urge you to support **HB 2561** and ensure that consumers in the state of Kansas are receiving real estate services from qualified real estate professionals.

H Commerce + Labor 3-13-07 (Attach 1)

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KANSAS REAL ESTATE COMMISSION
SHERRY C. DIEL, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Memo To: Chairman Brunk and Members of the House Commerce and Labor Committee
From: Sherry C. Diel, Executive Director
RE: HB 2561 Licensure of real estate salespersons and brokers
Date: March 13, 2007

The proposed legislation would create two new sections and amend three existing sections of the Real Estate Brokers' and Salespersons' License Act, K.S.A. 58-3034 et seq. The Commission is also requesting a balloon amendment that would amend K.S.A. 58-3050, the statute that provides the Commission its disciplinary authority.

Amend licensure and pre-license education requirements (Sections 1 – 3, p. 1 – 8): The proposed legislation would amend K.S.A. 58-3039 and 58-3046a by changing the qualifications for obtaining a salesperson's license on or after July 1, 2007 to eliminate the 6-month temporary salesperson license and the 30-hour post-license course. Instead, an original applicant for a salesperson's license would take the 30-hour pre-license course, a 30-hour practice course and the state portion of the licensure examination prior to filing the application for licensure. The pre-license course can be taken up to one year prior to filing the application for licensure. The practice course and the licensure examination must be completed within six months prior to filing the application for licensure.

If an applicant files an application for a salesperson license based upon limited reciprocity or education and examination criteria from another jurisdiction that is equal to or higher than Kansas' requirements, the applicant must at least complete the 30-hour practice course and the Kansas portion of the salesperson licensure examination. Kansas has worked with schools that teach both Kansas and Missouri students to avoid duplicate course work as long as the student completed the courses from both states within the six months immediately preceding the filing of the application.

If an applicant for a salesperson license filed a completed application and met the qualifications for licensure prior to July 1, 2007, the proposed legislation provides for a transition period so that this group of persons would follow the old rules and would become temporary salespersons, complete a post-license course and then convert to a standard salesperson license in 6-9 months as current law now provides.

Broker applicants applying by equivalent requirements met on or after July 1, 2007 would at least be required to complete a 4-hour course with a primary focus on the Kansas Brokerage Relationships in Real Estate Transactions Act, K.S.A. 58-30,101 et seq., and complete the Kansas portion of the broker licensure examination.

The Commission anticipates a one-time expenditure of approximately \$25,000 for computer consulting services to change the programming for the licensing database for changes that would become effective on July 1, 2007. The computer consulting services for programming of the licensing database would be paid through KSIP funds.

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(Attach 2)

Trade name or business name (Section 4, p. 8 – 9): The proposed legislation primarily codifies what is now K.A.R. 86-3-3, which has been in place since 1981. The Commission sought to amend the regulation last year and was advised that the Commission lacks statutory authority for the regulation. The proposed legislation would implement prior practice as required by K.A.R. 86-3-3 that required a supervising broker to register a business or trade name with the Commission and obtain approval to use it. The legislation would authorize the Commission to deny use of the name if it is misleading or confusing to the public. The proposed legislation also sets forth standards for what is considered confusing or misleading. A branch office would be required to use the same trade or business name as the primary office.

Amendments to K.S.A. 58-3047 (Section 5 - 6, p. 9 - 12): The amendments are clean up in nature and clarify what steps are taken when a license is issued or cancelled and reinstated.

Expiration, suspension or revocation of license of the supervising broker or branch broker (Sections 7 – 12, p. 12 – 15): Sections 7 through 12 of the proposed legislation addresses the issues of what happens to the licenses of salespersons or associate brokers who are employed by or associated with a supervising broker or branch broker whose license expires or is suspended or revoked and how pending transactions must be handled. Section 7 would provide that when the license of a supervising broker or branch broker expires, the Commission would have authority to automatically deactivate the licenses of any salespersons or associate brokers associated with or employed by that supervising broker or branch broker within five days after the Commission issues written notice to the associated or employed licensee of the expiration of the supervising broker's or branch broker's license. In the case of a suspension or revocation of a supervising broker's or branch broker's license, Section 8 would provide the Commission with authority to automatically deactivate the license of any associated or employed licensee within five days after written notice is issued by the Commission notifying the associated or employed licensee of the order of suspension or revocation of the supervising broker's or branch broker's license. In the case of expiration of a supervising broker or branch broker's license, another supervising broker or branch broker may assume the role as the supervising broker or branch broker to avoid deactivation of the affiliated licensees' licenses if notification is provided to the Commission prior to the expiration date of the change in supervising brokers or branch brokers. In the case of a suspension or revocation of a supervising broker or branch broker, the Commission may, if it deems it is in the public interest until pending transactions are closed, authorize another broker to act as the supervising broker or branch broker during the period of suspension or revocation.

Section 9 is intended to clarify that a supervising broker or branch broker whose license is suspended or revoked can be paid personally earned commission only if the commission was earned while the license was on active status and prior to the effective date of the suspension or revocation. Nothing would prohibit a supervising broker or branch broker whose license is suspended or revoked from receiving compensation from his ownership interest in the brokerage.

Section 10 would provide that unless another broker assumes the role of supervising broker or branch broker prior to the expiration date of the supervising broker's or branch broker's license, the supervising broker or branch broker must notify all clients and customers that the broker and all affiliate licensees will not be able to perform the terms of the listings and brokerage agreements and the client or customer may enter into another listing or brokerage agreement with a broker of their choice. When the supervising broker's or branch broker's license is suspended or revoked, the supervising broker or branch broker must send the notice to all clients or customers within five days after the effective date of the order of suspension or revocation, unless another broker is appointed by the Commission to serve as the supervising broker or branch broker.

Section 11 would prohibit a supervising broker or branch broker whose license is expired or is suspended or revoked from personally finalizing any pending closings. The legislation would require that the responsibility for finalizing pending closings be transferred to another broker, an attorney, a financial institution or an escrow company.

Section 12 would provide that if another supervising broker or branch broker has not been authorized by the Commission to act as the supervising broker, all advertising under the supervising broker's name or trade

name, including signage, must be removed or covered within five days after the expiration date or the supervising broker's or branch broker's license or the effective date of the suspension or revocation.

Requested Balloon Amendment: The Commission requests that a subsection from HB 2345 be added that would amend K.S.A. 58-3050 as follows:

Add as (c) and renumber the following subsections accordingly—"In all matters pending before the Kansas real estate commission, the commission shall have the power to revoke the license of any licensee who voluntarily surrenders such licensee's license or who does not renew their license pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated."

This amendment would allow the Commission's records to reflect that a licensee had a disciplinary action rather than their license showing on our records as expired. The Commission currently cannot accept a voluntary surrender of a license and, if we did so, the Commission would want the records to reflect the disciplinary history. The revocation would be subject to KAPA requirements pursuant to current law K.S.A. 58-3050(e). It is my understanding that the trade association, the Kansas Association of Realtors, does not oppose this amendment.

I would be happy to address your questions.