

Approved: SRB 3/14
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:09 A.M. on March 14, 2007 in Room 231-N of the Capitol.

All members were present except:

Bob Grant- excused
Brenda Landwehr- excused
Broderick Henderson- excused
Delia Garcia- excused
John Grange- excused
Lana Gordon- excused

Committee staff present:

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

Conferees appearing before the committee:

Others attending:

See attached list.

The Chairman advised that the report from the Commerce & Labor Subcommittee on SUTA Error Rate would be heard tomorrow. A copy had been passed out to the committee.

The Chairman called for action on **SB 2561 - Licensure of real estate brokers and salespersons** and that the Revisor had a balloon on the bill to pass out (Attachment 1).

Sherry C. Diel, Executive Director, Kansas Real Estate Commission was called upon to explain the balloon. The balloon allows the Commission to revoke the license of any licensee that has an action pending or under investigation or whose license has expired or willingly surrenders their license.

Representative Sharp made a motion to amend HB 2561 with the balloon, seconded by Representative Humerickhouse. There was no discussion and the motion passed by voice vote. We are back on the bill as amended.

Representative Sharp made a motion to pass HB 2561 favorably as amended, seconded by Representative Ruiz. Again there was no discussion and the motion passed by voice vote.

The Chairman mentioned the briefing to be received tomorrow on the State Use Law and the report from the subcommittee.

The Chairman called for approval of the minutes for 2/21/07, 3/1/07 and 3/6/07 that had been e-mailed to the committee. Representative Ruiz moved that they be approved and Representative Tietze seconded the motion. They were approved by voice vote.

The Chairman adjourned the meeting at 9:15 A.M.

HOUSE BILL No. 2561

By Committee on Federal and State Affairs

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58-3047 and 58-3050

9 AN ACT concerning real estate brokers and salespersons; relating to
10 licensure; amending K.S.A. 58-3045 and 58-3047 and K.S.A. 2006 Supp.
11 58-3039, 58-3046a and 58-3063 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2006 Supp. 58-3039 is hereby amended to read as
15 follows: 58-3039. (a) Any person desiring to act as a broker or salesperson
16 must file a written application for a license with the commission or, if
17 required by the commission, with the testing service designated by the
18 commission. The application shall be in such form and detail as the com-
19 mission shall prescribe and shall be accompanied by application and li-
20 cense fees prescribed by K.S.A. 58-3063, and amendments thereto.

21 (1) Any applicant who qualifies for licensure as a salesperson prior
22 to July 1, 2007, shall submit the application accompanied by evidence of
23 compliance with subsection (a) of K.S.A. 58-3046a, and amendments
24 thereto.

25 (2) Any applicant who qualifies for licensure as a broker prior to July
26 1, 2007, shall submit the application accompanied by evidence of com-
27 pliance with subsection (b) of K.S.A. 58-3046a, and amendments thereto.

28 (3) Any applicant who qualifies for licensure as a salesperson on or
29 after July 1, 2007, shall submit the application accompanied by evidence
30 of compliance with subsection (c) of K.S.A. 58-3046a, and amendments
31 thereto.

32 (4) Any applicant who qualifies for licensure as a broker on or after
33 July 1, 2007, shall submit the application accompanied by evidence of
34 compliance with subsection (d) of K.S.A. 58-3046a, and amendments
35 thereto.

36 (5) All applicants shall submit the application and license fees as pre-
37 scribed by K.S.A. 58-3063, and amendments thereto.

38 (b) A license to engage in business as a broker or salesperson shall
39 be granted only to a person who is 18 or more years of age and who has
40 a high school diploma or its equivalent.

41 (c) In addition to the requirements of subsection (b), except as pro-
42 vided in subsection (d), each applicant for an original license as a broker
43 shall have been:

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(Attach 1)

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1 lations adopted thereunder, the supervising broker shall submit a written
2 statement to the commission, within 10 days, setting forth the alleged facts
3 that were involved.

4 (i) If a salesperson's or associate broker's employment or association
5 with a branch broker is terminated by the branch broker for violation of
6 this act or rules and regulations adopted hereunder, or the brokerage
7 relationships in real estate transactions act or rules and regulations
8 adopted thereunder, the branch broker shall submit a written statement
9 to the commission, within 10 days, setting forth the alleged facts that were
10 involved.

11 (j) When a termination occurs pursuant to subsections (h) or (i) and
12 a real estate transaction is involved, the duty to report shall apply whether
13 the salesperson or associate broker acted as an agent, transaction broker
14 or as a principal in the transaction.

15 Sec. 6. ~~√~~K.S.A. 2006 Supp. 58-3063 is hereby amended to read as
16 follows: 58-3063. (a) The commission shall adopt rules and regulations
17 fixing the amounts of the fees provided for by this act, subject to the
18 following:

19 (1) For any examination required for licensure, a fee in an amount
20 equal to the actual cost of the examination and the administration thereof.

21 (2) For submission of an application for an original salesperson's li-
22 cense, an amount not exceeding \$25.

23 (3) For submission of an application for an original broker's license,
24 an amount not exceeding \$50.

25 (4) For an original salesperson's license, a prorated fee based on a
26 two-year amount not exceeding \$100.

27 (5) For an original broker's license, a prorated fee based on a two-
28 year amount not exceeding \$150.

29 (6) For renewal of a salesperson's license, a fee based on a two-year
30 amount not exceeding \$100.

31 (7) For renewal of a broker's license, a fee based on a two-year
32 amount not exceeding \$150.

33 (8) For reinstatement of a license which has been deactivated or
34 which has been canceled pursuant to subsection ~~(d)~~ (c) of K.S.A. 58-3047
35 and amendments thereto, or by reason of termination of a salesperson,
36 an amount not exceeding \$15.

37 (9) For reinstatement of all licenses canceled pursuant to subsection
38 ~~(e)~~ (d) or (f) of K.S.A. 58-3047 and amendments thereto, an amount not
39 exceeding \$7.50 for each license canceled.

40 (10) For issuance of a duplicate license, an amount not exceeding
41 \$10.

42 (11) For certification of licensure to another jurisdiction, an amount
43 not exceeding \$10.

Insert attachment and
renumber remaining
sections

1 ing, but not limited to, signage, must be removed or covered within five
2 calendar days after the expiration date of the supervising broker's or
3 branch broker's license or the effective date of the order of suspension
4 or revocation.

5 Sec. 13. K.S.A. 58-3045 and ~~58-3047~~ and K.S.A. 2006 Supp. 58-3039,
6 58-3046a and 58-3063 are hereby repealed.

7 Sec. 14. This act shall take effect and be in force from and after its
8 publication in the statute book.

, 58-3047 and 58-3050

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K.S.A. 58-3050 is hereby amended to read as follows:

▼ **58-3050. Refusal to grant or renew; revocation, suspension or restriction of license; censure of licensee; civil fines; procedures.** (a) The commission may refuse to grant or renew a license and the license of any licensee may be revoked, suspended, conditioned or restricted or a licensee may be censured, if:

(1) The licensee has committed a violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, whether the licensee acted as an agent or a principal in the real estate transaction;

(2) the licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of: (A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge;

(3) the licensee has been finally adjudicated and found to be guilty of violation of the federal fair housing act (42 U.S.C. 3601 et seq.) or K.S.A. 44-1015 through 44-1029, and amendments thereto;

(4) the licensee has obtained a license by false or fraudulent representation;

(5) the licensee has violated any lawful order or directive of the commission; or

(6) the licensee has committed a violation in another state and disciplinary action taken against such licensee resulted in the suspension, probation or revocation of such licensee's real estate license in such other state.

(b) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the commission, in accordance with the Kansas administrative procedure act and upon a finding that a licensee has violated a provision of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, may impose on such licensee a civil fine not exceeding \$500 for each violation.

(c) If a broker or salesperson has been declared disabled by a court of competent jurisdiction, the commission shall suspend the broker's or salesperson's license for the period of disability.

(e) (d) (1) Except as provided by paragraph (2) of this subsection, no complaint alleging violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, shall be commenced more than three years from the date of the occurrence which is the subject of the complaint.

(2) Unless the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(4) or (a)(5) shall be commenced within three years from the date of the occurrence of the violation. If the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(4) or (a)(5) shall be commenced within three years from the date of violation is ascertained by the commission.

(f) (e) All administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

(g) (f) Notwithstanding any provision of this act or the brokerage relationships in real estate transactions act to the contrary, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to summarily suspend the license of any licensee if the commission has reasonable cause to believe that the licensee's trust account is in unsound condition or that the licensee is misappropriating funds belonging to other persons.

(h) (g) If a licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of, any felony charge, the commission may use emergency adjudicative proceedings, as provided by

In all matters pending before the 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 such license pending investigation of misconduct or while charges of misconduct are pending or anticipated.

(d)

K.S.A. 77-536, and amendments thereto, to suspend, revoke, condition or restrict the licensee's license.

(i) ~~(h)~~ When the real estate license of an individual is revoked and that individual's name is included in the trade or business name of a real estate brokerage business, the commission may deny continued use of the trade or business name if, in the opinion of the commission, it would be confusing or misleading to the public.

If the revocation of the individual's license is appealed to district court and a stay of the commission's order is granted by the court, the commission may not deny continued use of the trade or business name until such time as the district court upholds the order of the commission.

History: L. 1980, ch. 164, § 17; L. 1984, ch. 313, § 88; L. 1986, ch. 209, § 10; L. 1988, ch. 197, § 3; L. 1991, ch. 163, § 3; L. 1995, ch. 252, § 19; L. 1996, ch. 212, § 6; Revived, L. 1997, ch. 65, § 11; L. 1997, ch. 65, § 12; L. 2002, ch. 82, § 6; L. 2004, ch. 82, § 2; July 1.