

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 6, 2007 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Jeff Carson, Kansas Association of Realtors
John Green, Coldwell Banker Griffith
Cal Lantis, Kansas Association of Realtors
Sherry Diel, Kansas Real Estate Commission
Joan Wagnon, Secretary of Revenue
Carmen Alldritt, Director of Vehicles
Paul Degener, Citizens for Immigration Reform

Others attending:

See attached list.

HB 2295 - Effect of criminal convictions on licensure of real estate brokers and salespersons

Chairman Brungardt continued the hearing on **HB 2295**.

Jeff Carson, Kansas Association of Realtors, spoke in favor of the bill. (Attachment 1) The bill allows for a criminal background check to be conducted prior to the granting of a real estate license, and the Commission will be allowed to consider all the necessary information to determine the suitability of an applicant to receive a real estate license.

John Green, President Coldwell Banker Griffith and Blair American Home, appeared in favor of the bill. (Attachment 2) The bill is a very important step forward in safeguarding the interests of buyers and sellers and their properties. Mr. Green's firm implemented a year ago the decision to do background checks on all the candidates for a real estate license that were to be hired.

Cal Lantis, Kansas Association of REALTORS, appeared as a proponent on the bill. (Attachment 3) This bill is about public safety and the right of citizens to be protected by law on who has access to their homes and private records and who comes in contact with their families.

Sherry Diel, Executive Director, Kansas Real Estate Commission, appeared neutral on the bill. (Attachment 4) The bill was requested by the trade association, the Kansas Association of Realtors, to raise the bar for licensees who are entrusted to have keys to the public's homes and access to personal financial documents that occurs when licensees assist their client or customer with a transaction. The Commission had significant concerns with this bill as it was introduced; the three largest issues were the permanent bar against licensure for applicants convicted of felonies that caused the person to be listed as a violent offender; the requirement to revoke any current licensees who have felony records even though the license had been approved after disclosure and the person had been practicing real estate for many years without incident; and the removal of the Commission's power to consider misdemeanors at the time of renewal. Attached to the testimony is a summary of the surveyed results from other jurisdictions concerning whether the jurisdiction has a waiting period for convicted felons prior to consideration for licensure, or if the Commission determines the applicant's qualification on a case-by-case basis.

Chairman Brungardt closed the hearing on **HB 2295**.

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 6, 2007 in Room 231-N of the Capitol.

HB 2390 - Drivers' licenses and identification cards

Chairman Brungardt opened the hearing on **HB 2390**.

Carmen Alldritt, Director, Division of Vehicles, appeared in favor of the bill. (Attachment 5) The primary focus of the bill is to strengthen existing state requirements that an applicant prove age, lawful presence, identity and Kansas residence; and achieves this by providing agents of KDOR with law enforcement authority to investigate fraudulent applications, which heightens the level of security and training the Division of Motor Vehicles must maintain with regard to its own employees and agents who manufacture, process, and distribute DL/ID's.

An amendment was offered that removes existing photo exemptions and mandates that all applicants for drivers' licenses and identification cards submit to facial image capture (Sec. 5(a) and a technical change that limits the term "state" to mean a State of the United States and recognized territories. (Sec. 3(a)(5). (Attachment 6)

W. Paul Degener, Citizens for Immigration Reform, spoke in favor of the bill. (Attachment 7) Mr. Degener felt there are two additional documents that should be added to the list when applying for a driver's license, a valid state birth certificate or naturalization papers and necessary if we are to preserve our current election process.

Chairman Brungardt closed the hearing on **HB 2390**.

Senator Vratil requested a bill introduction that concerns certain county and district attorneys; requiring compliance with policies adopted by boards of county commissioners.

Senator Vratil moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Senator Brownlee and Senator Lynn recorded as voting no on the bill introduction.

The meeting was adjourned at 11:45 am. The next scheduled meeting is March 7, 2007.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE 3/6/07

NAME	REPRESENTING
Katell Subaung	Keaneley & Associates
Melinda Lewis	El Centro, Inc.
Jeff [unclear]	KAR
Cal Santos	K.A.R.
Arthur Solis	self
LARRY MAGILL	KS Assn of INS AGENTS
KERRI SPIELMAN	" " " "
Tom Conant	KDOR
Jamie Corkhill	SRS
PAUL DEGENER	GFIR
Ted Smith	ADR
TERRY MITCHELL	KDOR
CARMEN ALDRITT	KDOR
JOHN GREEN	KS ASS. OF REACTORS
JAY ROBERTS	De Soto High School
Trisha Roberts	De Soto High School
Jessica Pennington	De Soto High School
Kristen Harbin	De Soto High School
Chesney Burgweger	De Soto High School
Nancy Yaquez	Rep. Delia Garcia
Scott Bollenberg	KS Sheriffs' Ass'n
[unclear]	John Peterson
Lindsey Douglas	Hein Law Firm



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To: Senate Federal and State Affairs Committee
From: Jeff Carson, 2007 President Elect, Kansas Association of REALTORS®
Date: March 1, 2007
Subject: **HB 2295** – Criminal Background Checks and Limitations on the Ability of the Kansas Real Estate Commission to Grant Licenses to Certain Convicted Felons.

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, thank you for the opportunity to appear before you on behalf of the Kansas Association of REALTORS® to ask for your support of **HB 2295**.

My name is Jeff Carson and I am the President-Elect of the Kansas Association of REALTORS®. REALTORS® are very passionate in their support of **HB 2295** as we feel it is a monumental leap forward in protecting the interests of homebuyers and sellers in the state of Kansas.

Under our current licensing statutes, the Kansas Real Estate Commission requires that applicants honestly answer questions about prior convictions of any criminal offense before a real estate license is granted. However, unfortunately, many applicants do not fully disclose their past criminal convictions on their license application. As a profession, we are concerned that the only accountability we have to ensure that the public is protected is a reliance on the honesty of applicants on the real estate license application. By requiring a criminal background check to be conducted prior to the granting of a real estate license, the Commission will be allowed to consider all the necessary information to determine the suitability of an applicant to receive a real estate license.

HB 2295 further provides the Commission with additional criteria to use in determining whether or not an applicant with past criminal convictions is suitable to receive a real estate license. Sadly, until now, filling out an application honestly and completing required education curriculum is all that was necessary to provide a person with access to over 25,000 homes for sale in the state of Kansas. As REALTORS®, we take responsibility for the safety not only for our client's homes, but their personal safety and the safety of their families as well. We simply want to ensure that an unqualified and unprofessional individual never has the ability to have unlimited access to your daughter, sister, mother, or grandmother's home.

While REALTORS® are generous and forgiving people, we also feel that certain acts or misdeeds committed in the past should preclude you from certain occupations and specifically the real estate profession because of the very personal nature of accessing people's homes. Nobody would think twice about requiring a teacher to submit to a background check or preventing a convicted felon from having access to children in school. However, as it stands now, that same individual can get a real estate license and have unlimited access to my home.

As the upcoming President of the Kansas Association of REALTORS®, I never want to have to answer to a family member whose loved ones have been involved in a violent attack by a real estate licensee who we unknowingly allowed into our business. I've been a REALTOR® for 17 years and ashamedly I have never thought or considered the consequences of our current licensure requirements until now. **HB 2295** allows us to the opportunity to put controls in place to protect the public.

Chairman Brungardt and members of the Committee, REALTORS® are united in standing together in the interest of public safety in our profession. We invite you all to stand with us and support **HB 2295**.

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Sen Fed & State

Attachment 1

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To: Senate Federal and State Affairs Committee

From: John Green, President Coldwell Banker Griffith and Blair American Home, Topeka

Date: March 1, 2007

Subject: **HB 2295**

Thank you for the opportunity to appear today before you to support **HB 2295**. My name is John Green and I am an owner of the largest real estate company in the city of Topeka; with 77 agents located in two offices. Our industry has always strived to increase the respect that we deserve from the public we serve. One of the industry's concerns is the quality of the individuals who are allowed to enter the industry. We have a responsibility to the public to protect the owners of the homes we have listed and the buyers and sellers who rely on us to assist them in the home purchasing process.

The passage of **HB 2295** is a very important step forward in safeguarding the interests of buyers and sellers and their properties. Under current statutes, each applicant for a real estate license must disclose if he or she has been convicted of any criminal offense. However, my concern is that many applicants fail to honestly answer the question on the license application.

Two years ago, I interviewed an employment agency for the purpose of assisting our company in locating and identifying candidates for a real estate career. The first question the employment agency asked was what our current procedure for checking the backgrounds of potential applicants. I answered the question and then I was asked if we conducted criminal background checks on applicants. Unfortunately, I was embarrassed to say that we had not even considered running criminal background checks on the applicants. The employment agency was shocked and as potential clients expressed serious concerns regarding our company and the real estate industry.

Within the year, we made the decision to perform our own criminal background checks on all the candidates for a real estate license that we planned to hire. Our concern now is how to protect our clients from the other real estate licensees who we know have not had completed a criminal background check prior to licensure.

My final concern is regarding the current policy of the KREC. It is my understanding that if KREC grants a license to an individual who has a criminal record, the commission asks the employing broker if he or she is willing to have this individual within his or her agency. My concern is what about all the other companies who have no knowledge of the individual's background who unknowingly allow these individual to enter into the homes of our clients. What happens if the agent changes companies and the new broker has no knowledge of the individual's criminal background prior to licensure?

In order to protect consumers and uphold the professionalism of the real estate industry, I urge you to support **HB 2295**.

To: Senate Federal and State Affairs Committee

From: Cal Lantis, 2005 President, Kansas Association of REALTORS®

Date: March 1, 2007

Subject: **HB 2295** – Criminal Background Checks and Limitations on the Ability of the Kansas Real Estate Commission to Grant Licenses to Certain Convicted Felons

Chairman Brungardt and the members of the Senate Federal and State Affairs 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 2295**.

I am the Broker/Owner of Century 21 Lantis & Associates in Ottawa, Kansas. From 1981 through 1984, prior to starting my real estate career, I was a deputy sheriff in Franklin County and I served for ten years after that as a reserve deputy for the same department. During my tenure as deputy sheriff I also served as member of the 4th Judicial District Community Corrections Advisory Board. I believe that this background may give me a unique perspective on the issue before you.

There are three points that I would like to make today in support of **HB 2295**.

The first is simply that this isn't about reducing the power of the Kansas Real Estate Commission. This is about removing their liability by statutorily defining when and if a convicted felon may receive a real estate license. This is about public safety and the right of citizens to be protected by law on who has access to their homes and private records and who comes in contact with their families. On any given day, if you are granted a real estate license in Kansas, you are given access to 25,000 – 30,000 homes across the state. I believe that most Kansans would not want to allow a convicted felon to have uncontrolled entry into their home.

Second is the personal experience of having had an agent that was a victim of sexual assault. The event occurred in 1997. The agent was one of six individuals who were molested by this man. At the time of the incident, the Franklin County Attorney's office was understaffed and subsequently overworked. The accused was offered a plea bargain of simple felony assault, which he declined. He went to trial and was convicted of sexual assault and sentenced to prison. He served his sentence and his last known address was Topeka. The point of this is that had he taken the plea of a class E felony he would probably be granted a real estate license if he applied. Would you want him to have contact with your wife or daughter?

The third point is recidivism. According to the former Kansas Secretary of Corrections in "A Message From the Secretary, October, 2001," within 3 years of release 41% of convicted felons are returned to prison for parole violations and 15% are returned for committing additional crimes. This is the general population. There are other studies that indicate that the recidivism rate for violent offenders and sexual predators is higher. Some studies suggest that it is much higher. In the last 18 months, 41 felons have applied for licensure and 31 of those applications have been granted. If you use the Secretary's numbers and look at the number of admitted felons that have been granted a real estate license the math is simple.

When I was thinking about buying a motorcycle a couple of years ago an old Harley rider told me "Cal, it's not if your going to have a bad wreck on a motorcycle, it's when." I believe it's the same with granting a felon a real estate license.

I ask you to support **HB 2295**. Thank you for your time.

KANSAS

KANSAS REAL ESTATE COMMISSION
SHERRY C. DIEL, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Memo To: Chairperson Brungardt and Members of the Senate Federal and State Affairs
Committee
From: Sherry C. Diel, Executive Director
RE: HB 2295—Concerning licensure of real estate salespersons and brokers
Date: March 1, 2007

Thank you for the opportunity to address your Committee today.

HB 2295 was requested by the trade association, the Kansas Association of Realtors, to raise the bar for licensees who are entrusted to have keys to the public's homes and access to personal financial documents that occurs when licensees assist their client or customer with a transaction. The Commission applauds the trade association for wanting to raise the bar for licensure.

The Commission had significant concerns with this piece of legislation as it was introduced. The three largest issues were the permanent bar against licensure for applicants convicted of felonies that caused the person to be listed as a violent offender; the requirement to revoke any current licensees who have felony records even though the license had been approved after disclosure and the person had been practicing real estate for many years without incident; and the removal of the Commission's power to consider misdemeanors at the time of renewal. After the hearing in the House Commerce and Labor Committee, the trade association got together with the Commission to iron out some of the Commission's concerns. Substantial amendments to the legislation were proposed as a result.

The Commission has no objections to the fingerprinting and background checks for new applicants. The Commission has requested that applicants disclose criminal history information on the application for many years, but the KBI and FBI criminal history check will provide further assurance that the Commission has a true and accurate picture of the applicant. The Commission will need to hire a new person in licensing to process applications and to correspond with applicants regarding the process. The fiscal impact will be \$22,500-\$25,000. The bill was amended to allow the Commission to recover the cost from the applicant of administering the fingerprint and background check program, but the Commission's spending cap will need to be raised in FY 08 and FY 09 if this legislation passes to allow the Commission to pay the KBI.

A negotiated amendment provided for the inclusion of a grandfather clause in the bill so that the Commission would not be required to revoke the license of any licensee that has previously disclosed a felony. Consequently, this legislation, as amended, will not significantly increase litigation filed against the agency as previously feared.

House members were told of 31 instances where felons were granted a real estate license. The Commission believes that it has used its discretion judiciously in licensing felons over the years. In fact, the vast majority of felons that have been licensed by the Commission would also be licensed under this bill because of the nature of the crime, the time that had elapsed, and the applicant had shown that they were rehabilitated. Although the Commission believes that the

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waiting periods for some felonies that fall under the list of violent offenders may be unreasonably long due to the specific facts that the Commission currently has the discretion to consider on a case-by-case basis, the Commission is pleased that the trade association was willing to work with the Commission to propose favorable changes to other portions of the legislation.

Attached to my testimony is a summary of the survey results from other jurisdictions concerning whether the jurisdiction has a waiting period for convicted felons prior to consideration for licensure, or if the Commission determines the applicant's qualifications on a case-by-case basis. Of the 22 jurisdictions that responded, only Missouri has a complete bar on the licensure of felons convicted of certain crimes. Only Nova Scotia, Utah, Alaska and Idaho bar convicted felons for a specific period of time and 17 jurisdictions authorize the commissioners to use discretion whether to grant or deny licensure.

I would be happy to address any questions the Committee may have. Thank you for your time and consideration.

SURVEY OF JURISDICTIONS REGARDING
LICENSURE OF CONVICTED FELONS

The Kansas Real Estate Commission asked me to post the following questions to jurisdictions:

Does your jurisdiction's law provide for an outright ban from licensure for convicted felons for any offense or specific offenses?

Arkansas law provides thata person shall not receive or hold a license issued by the Commission if the person has been convicted of a felony or crime involving moral turpitude, fraud, dishonesty, untruthfulness, or untrustworthiness. However the applicant can request a hearing if denied and the Commission can waive the conviction based on the following:

The age at which the crime was committed;

The circumstances surrounding the crime;

The length of time since the crime;

Subsequent work history;

Employment references;

Character references;

Other evidence demonstrating that the applicant does not pose a threat to the public.

Kentucky is the same for felony and some misdemeanor cases. They are determined on a case by case basis.

Norman Brown

Executive Director

Kentucky Real Estate Commission

SD does not have an outright ban; however, it is grounds for denial of an application. If an application is denied by me, the applicant has the right to appeal my decision to the Commission.

Dee Jones Noordermeer
Executive Director
South Dakota Real Estate Commission

No. Cases are considered on a case by case basis in North Carolina.

No. Not in the District of Columbia.

The Oregon Real Estate Agency does not deny licenses solely on the fact that an applicant or licensee is a convicted felon. We evaluate whether there is a nexus between the crime and conducting the business of real estate. Once the crime is identified, an evaluation of the nexus between the crime and the licensee's responsibilities, the agency must also consider:

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:
 - (A) The passage of time since the commission of the crime;
 - (B) The age of the subject individual at the time of the crime;
 - (C) The likelihood of a repetition of offenses or of the commission of another crime;
 - (D) The subsequent commission of another relevant crime;
 - (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
 - (F) A recommendation of an employer.

We are currently working on further defining the administrative rules to better outline the crimes we consider serious and questionable.

No, Texas considers each conviction on a case by case basis. Chapter 53 of the Texas Occupations Code provides criteria that licensing and occupational boards must use in determining whether to grant a license to a person with a criminal conviction. Here is the link to Chapter 53.

<http://tlo2.tlc.state.tx.us/statutes/docs/OC/content/htm/oc.002.00.000053.00.htm#53.001.00>

Loretta DeHay
General Counsel
Texas Real Estate Commission

The California Department of Real Estate does have an outright ban from licensure for individuals convicted of felonies. These licensing decisions are made on a case by case basis. Some of the key factors in the decision process include the length of time that has transpired since the conviction and the time that the individual was off of probation or parole as well as the efforts the individual has made toward rehabilitation.

Bill Moran
Assistant Commissioner,
Enforcement

No, West Virginia considers each application on a case-by-case basis.

No, not in Maine

Massachusetts law does not provide for an outright ban. Rather, it permits the Board to review the criminal conviction (an other relevant information) to determine whether there is a reasonable basis for concluding that rehabilitation occurred and that the individual candidate has the requisite good moral character to become a licensed real estate agent.

Joe Autilio

In Oklahoma we consider each case individually, case by case. We have rules which set out what constitutes good moral character, i.e., past convictions, length of time since a conviction, have fines and costs been paid, all probation requirements met, etc. Anne

In Alabama, no.....Commissioners may reject or deny issuance of a license to an applicant with a record of felony or issues of moral turpitude.

Shown below are the guidelines for Nova Scotia.

B. Application for Pre-Screening

Successful completion of the licensing course and examination is not the sole requirement for licensing. The Real Estate Trading Act and By-Law also stipulate that applicants for a licence shall "be of good reputation". (See "Good Reputation" below). For this reason, applicants are investigated. The investigation process generally takes four to eight weeks.

Individuals who have some concern about whether or not they satisfy the requirements of being of "good reputation" should, prior to registering for the licensing course, submit a licence application together with the fee to the Real Estate Commission office. An advance decision may thus be obtained as to the applicant's suitability for licensing subject, of course, to completing the course and passing the examination.

In the event that an applicant is found not to be suitable for licensing, the fee is fully refunded. If the applicant is found to be suitable for licensing, but does not proceed with an application for licensing, a refund in the amount of 75% of the fee is available.

C) "Good Reputation" - Guidelines

Every applicant for a licence shall, among other things, be of "good reputation". General business and personal reputation in addition to criminal convictions and charges will be reviewed when considering an applicant's "good reputation".

It is standard procedure for copies of all applications to be forwarded to the R.C.M.P. to determine if the applicant has engaged in unlawful activities, and it is incumbent upon applicants to ensure that all charges and convictions, including conditional discharges, are disclosed when applying for a licence. A criminal conviction will not necessarily be a bar to licensing. Consideration is given as to the nature of the offence, sanctions imposed, and whether the offence is related to the employment of the applicant as a real estate Salesperson, Managing/Associate Broker or Broker. A continued history of convictions, charges or other actions relating to the unlawful activity may result in the denial of licence.

Applications from applicants with criminal records will not be considered until the following periods have passed following convictions:

i) **Summary Conviction Offenses**

a) Summary conviction offenses unrelated to employment - e.g., common assault, simple possession of narcotics, impaired driving.

The Commission will not consider an application until completion of sentence, parole and/or probation, or payment of fine. Summary conviction offenses are defined as having a maximum sentence of a fine of not more than \$2,000 or a sentence to imprisonment for six months or both. These would include offenses for which the applicant had received a fine, a suspended sentence and probation or a conditional discharge and probation.

b) Summary conviction offenses related to employment - e.g., theft under \$1,000 (shoplifting); false pretences under \$1,000; possession of stolen property under \$1,000.

An application will not be considered until at least one year following completion of sentence, parole and/or probation. These would include offenses for which the applicant had received a fine, a suspended sentence and probation or a conditional discharge and probation.

ii) **Indictable Offenses**

a) Indictable offenses unrelated to employment - e.g., possession of narcotics for the purpose of trafficking.

Applications from applicants will not be considered until at least one year following completion of sentence, parole and/or probation. These would include indictable offenses for which the applicant received a sentence of imprisonment, a fine, a suspended sentence and probation or a conditional discharge and probation.

b) Indictable offenses related to employment - e.g., theft over \$1,000, breaking and entering, possession of stolen property over \$1,000, false pretences over \$1,000.

Applications from applicants will not be considered until at least two years from the date of completion of sentence, parole and/or probation. These would include indictable offenses for which the applicant received a sentence of imprisonment, a fine, a suspended sentence and probation or a conditional discharge and probation.

iii) **White Collar Crime**

The crimes in this category include theft from employer, theft of large sums of money, serious fraud cases, embezzlement, criminal breach of trust, forgery or any other business related crime or a conviction for a crime where the individual was in a position of trust.

Applications from applicants will not be considered until at least five years from the date of completion of sentence, parole and/or probation. These would include both summary and indictable offenses for which the applicant received a sentence of imprisonment, a fine, a suspended sentence and probation or a conditional discharge and probation.

NOTE: For the purpose of determining whether a conviction is related to employment as a real estate licensee, the following criteria shall be included.

- a) Does the behaviour for which the charge was laid, if repeated, pose any threat to the employer's ability to carry on business safely and efficiently?
- b) What were the circumstances of the charge and the particulars of the offence involved: e.g., how old was the individual when the events in question occurred and were there any extenuating circumstances?
- c) How much time has elapsed between the charge and the employment decision?
- d) What has the individual done during that period of time?
- e) Has the person shown any tendencies to repeat the kind of behaviour for which they were charged?
- f) Has the person shown a firm intention toward self-rehabilitation?

Hope this helps.

Doug Dixon

Registrar

Nova Scotia Real Estate Commission

lowa unfortunately no

Neither. In Nebraska, the Commission considers each applicant or licensee on a case-by-case basis. A felony can be a reason for denial of a license; denial of the renewal of a license or the revocation of a license after hearing.

Les

No in Louisiana. Applications are considered on a case by case basis.

J. C.

In Utah, the licensing statute give the Real Estate Commission authority to establish licensing standards. The Commission recently passed a rule under that authority that prohibits a person from being licensed if that person has any felony within the past 5 years or any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within the past 3 years.

We have been happy with the result of this new rule. Our experience has been that the real estate schools have done an excellent job of getting the word out and we have seen a significant reduction in the number of applicants who do not meet these qualifications, so we don't have to spend time and resources handling applications that would have typically been denied anyway.

All other applications are dealt with on a case-by-case basis.

Ms Toll:

I am sorry we have not had the opportunity to meet yet. I hope we get the opportunity soon. The Kansas Association of Realtors has introduced legislation that bars felons listed as sexual offenders or violent offenders from ever obtaining a real estate license, felons who have committed fraud, embezzlement, etc. are barred for 10 yrs. and any other felon is barred for 5 yrs. All discretion would be taken away from the Commission. I am told that Colorado has a complete ban on felons obtaining a license. Could you email me a copy of your statute?

Thanks for your help.

Ms. Diel,

I am responding on behalf of Erin Toll in regards to your email about Colorado's statutes on licensing felons. We actually don't have a ban on licensing felons. Applicants for a broker's license are required to disclose misdemeanor and felony convictions that occurred within 10 years of their application for licensure. The applicants with criminal convictions are subject to a pre-licensure investigation, the outcome of which is presented to our Real Estate Commission. Our Commission decides if a license will be granted. We do have a specific statute regarding brokers who have been convicted, pled guilty or pled nolo contendere to specific criminal offenses while they have been licensed. That statute is 12-61-113(1)(m), C.R.S. If I can be of further assistance, please let me know.

Thank you,

Marcia Waters

Division of Real Estate
Colorado Real Estate Commission

Hi Janet:

The Kansas Association of Realtors has introduced legislation that bars felons listed as sexual offenders or violent offenders from ever obtaining a real estate license, felons who have committed fraud, embezzlement, etc. are barred for 10 yrs. and any other felon is barred for 5 yrs. All discretion would be taken away from the Commission. I am told that Missouri has a complete ban on felons obtaining a license. Could you email me a copy of your statute?

Thanks for your help. See you soon.

Sherry:

Here is the language found in 339.100 RSMo. We basically took the language from the Department of Education. This is our first renewal under the language and we are still tracking down a couple of licensees who failed to mark "yes" to the question, when we know they should have. We also have indicates that many people chose to not renew so that the information would not be made public.

Best regards,

janet

Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

- (1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first degree;
- (2) Any of the following sexual offenses: rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice a child;
- (3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children; and
- (4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commissioner.

Janet Carder, Executive Director
Missouri Real Estate Commission

Hi Sharon:

The Kansas Association of Realtors has introduced legislation that bars felons listed as sexual offenders or violent offenders from ever obtaining a real estate license, felons who have committed fraud, embezzlement, etc. are barred for 10 yrs. and any other felon is barred for 5 yrs. All discretion would be taken away from the Commission. I am told that Alaska has a complete ban on felons obtaining a license. Could you email me a copy of your statute?

Thanks for your help. See you soon.

Good Morning Sherry,

Well unfortunately in AK we do not have a "complete" ban on felons obtaining a RE license. In fact we are looking at ways to not allow them in without some sort of time span since their conviction. Right now we only require that they have completed their probation and that's it for a Salesperson license qualifier. However, in order to obtain an AB or Brokers license a time span of seven years must have lapsed since you committed a felon.

Sorry we don't have what you are looking for in our statutes... maybe AZ or AR or AL?

See you in Banff.

Regards,
Sharon

Ms. Martine:

The Kansas Association of Realtors has introduced legislation that bars felons listed as sexual offenders or violent offenders from ever obtaining a real estate license, felons who have committed fraud, embezzlement, etc. are barred for 10 yrs. and any other felon is barred for 5 yrs. All discretion would be taken away from the Commission. I am told that Virginia has a complete ban on felons obtaining a license. Could you email me a copy of your statute?

Thanks for your help.

Ms. Diel,

At this time, the Virginia Real Estate Board does not have a complete ban on felons obtaining a license. We require all licensees to disclose whether they have any convictions on their applications. If a person discloses a felony conviction, the person is given an opportunity to present information at an Informal Fact-Finding conference (IFF) regarding the conviction(s). The Board must review the information obtained at the IFF to ascertain whether or not to issue the license pursuant to § 54.1-204 of the Code of Virginia. Here is the link to that Code section. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+coh+54.1-204+404134>

I hope this information is helpful. If you need anything further, please don't hesitate to contact me.

Christine Martine
Executive Director
Real Estate Board
Dept. of Professional and Occupational Regulation
804-367-0402

Mr. Hurlburt:

The Kansas Association of Realtors has introduced legislation that bars felons listed as sexual offenders or violent offenders from ever obtaining a real estate license, felons who have committed fraud, embezzlement, etc. are barred for 10 yrs. and any other felon is barred for 5 yrs. All discretion would be taken away from the Commission. I am told that Connecticut has a complete ban on felons obtaining a license. Could you email me a copy of your statute?

Thanks for your help.

REAL ESTATE LICENSURE Sec. 20-316. Grounds for refusal of license. (a) No license under this chapter shall be denied by the commission to any applicant who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or other like offense or offenses, or to any association or partnership of which such person is a member, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly, except in accordance with the provisions of section 46a-80.

(b) No license under this chapter shall be issued by the department of consumer protection to any applicant (1) whose application for a license as a real estate broker or real estate salesperson has, within one year prior to the date of his application under this chapter, been rejected in this state, in any other state or in the District of Columbia or (2) whose license as a real estate broker or real estate salesperson has, within one year prior to the date of his application under this chapter, been revoked in this state, in any other state or in the District of Columbia.

(c) No license as a real estate broker or real estate salesperson shall be issued under this chapter to any person who has not attained the age of eighteen years.

(d) The provisions of this section shall apply any applicant for a license under this chapter, whether or not such applicant was engaged in the real estate business in this state on July 1, 1953, and whenever the applicant's application is filed.

Sec. 46a-80. (Formerly Sec. 4-61o). Denial of employment based on prior conviction of crime. Dissemination of arrest record prohibited. (a) Except as provided in subsection (b) of this section and subsection (b) of section 46a-81, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state of

Connecticut or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state of Connecticut or any of its agencies solely because of a prior conviction of a crime.

(b) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state, or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought.

(c) If a conviction of a crime is used as a basis for rejection of an applicant, such rejection shall be in writing and specifically state the evidence presented and reasons for rejection. A copy of such rejection shall be sent by registered mail to the applicant.

(d) In no case may records of arrest, which are not followed by a conviction, or records of convictions, which have been erased, be used, distributed or disseminated by the state or any of its agencies in connection with an application for employment or for a permit, license, certificate or registration.

Thank you,

Richard :)

Richard M. Hurlburt Director

Connecticut Department of Consumer Protection

Occupational and Professional Licensing Division

Ms. Jackson-Heim:

The Kansas Association of Realtors has introduced legislation that bars felons listed as sexual offenders or violent offenders from ever obtaining a real estate license, felons who have committed fraud, embezzlement, etc. are barred for 10 yrs. and any other felon is barred for 5 yrs. All discretion would be taken away from the Commission. I am told that Idaho has a complete ban on felons obtaining a license. Could you email me a copy of your statute?

Thanks for your help.

It is true that in Idaho, any felony conviction precludes licensure. However, if 5 years has passed since the felony conviction, then the applicant may apply to the commissioners for an exemption. Here is a link to our statute:

<http://www3.state.id.us/cgi-bin/newidst?sctid=540200012.K>

Hope that helps. Please let me know if you need any further information or assistance!

Thanks,
Jeanne

Idaho Statutes

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES
CHAPTER 20

IDAHO REAL ESTATE LICENSE LAW

54-2012. MINIMUM REQUIREMENTS FOR AN INDIVIDUAL PRIMARY IDAHO LICENSE.

(1) Requirements for all individual primary licenses. Unless a qualification is waived or modified by the commission for good cause and upon special consideration, and except as provided in section 54-2015, Idaho Code, each person seeking a primary Idaho real estate license as a salesperson, associate

broker or designated broker shall meet all of the following minimum qualifications:

- (a) Be an individual;
- (b) Be eighteen (18) years of age or older;
- (c) Furnish satisfactory proof that the applicant graduated from an accredited high school or its equivalent or holds a certificate of

general

education;

(d) Not have had a real estate or other professional or occupational license revoked, suspended, or surrendered, or the renewal refused, for a disciplinary violation involving fraud, misrepresentation or dishonest or dishonorable dealing, in Idaho or any other jurisdiction, within five (5) years immediately prior to the date the application for license is submitted to the commission;

(e) Not have been convicted or completed any sentence of confinement for or on account of any misdemeanor involving fraud, misrepresentation or dishonest or dishonorable dealing, in a state or federal court, within five (5) years immediately prior to the date the application for license is submitted to the commission;

(f) Not have been convicted of any felony in a state or federal court; provided that after a period of five (5) years from the date the person was convicted or completed any term of probation, sentence or confinement or period of parole, whichever is later, the applicant may make written request to the commission for an exemption review to determine the applicant's suitability for licensure, which the commission shall determine in accordance with the following:

(i) The exemption review shall consist of a review of any documents

relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for licensure. The commission may, at its discretion, grant an interview of the applicant.

(ii) During the review, the commission shall consider the following factors or evidence:

1. The severity or nature of the felony;
2. The period of time that has passed since the felony under review;
3. The number or pattern of felonies or other similar incidents;
4. The circumstances surrounding the crime that would help determine the risk of repetition;
5. The relationship of the crime to the licensed practice of real estate; and
6. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation.

(iii) The applicant shall bear the burden of establishing his current suitability for licensure.

(g) Complete all prelicense education requirements as provided for in section 54-2022, Idaho Code, for a salesperson's or broker's license;

(h) Pass the commission-approved real estate licensing exam for a sales or broker license in the time and manner stated in section 54-2014, Idaho Code, and pay the required exam fees;

(i) Be fingerprinted for the purpose of a national criminal history check

to determine whether the applicant is qualified for licensure, and pay all

fees associated with the fingerprinting and background check services. If the fingerprints are returned to the commission as illegible the applicant

shall, upon request from the commission, be fingerprinted again and file the new fingerprints with the commission;

(j) Sign and file with the commission an irrevocable consent to service, appointing the commission's executive director to act as the licensee's agent upon whom all judicial and other process or legal notices directed to such licensee may be served, and consenting that any lawful process against the licensee that is served upon the executive director shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this state. Upon receipt of any such process or notice, the executive director shall immediately mail a copy of the same by certified mail to the last known address of the licensee. All

licensees

shall provide the commission a full and current mailing address and shall notify the commission in writing of any change in mailing address within ten (10) business days of the change;

(k) If licensing as an active salesperson or associate broker, provide the name and physical address of the main business location of the designated broker with whom the applicant will be licensed, and the signature of that broker; or, if licensing as a designated broker,

provide

the name and physical address of the main business location. No Idaho sales associate may be licensed under or associated with more than one

(1)

Idaho broker at a time;

(l) Submit a properly completed application and all license, application and other fees listed in section 54-2020, Idaho Code, or as otherwise required by statute or rule; and

(m) Provide satisfactory proof of meeting the mandatory errors and

omissions insurance requirement for real estate licensees, as stated in section 54-2013, Idaho Code.

(2) Additional requirements for broker and associate broker licenses. Applicants seeking a primary Idaho license as a broker or associate broker shall meet the additional following qualifications:

(a) Provide satisfactory evidence of having been actively engaged, on a full-time basis, for two (2) years as a licensed real estate salesperson within five (5) years immediately prior to the date upon which the individual makes application. Such evidence shall demonstrate the productiveness of the licensed activity to have been generally commensurate with that of other licensees practicing in a similar capacity. Listings, sales, options or other licensed activities may be considered by the commission in determining whether the applicant meets this qualification.

(i) A broker or associate broker applicant may be required to furnish a report of listings and sales accomplished by the applicant during two (2) or more years within the last five (5) years of licensure immediately prior to the application date;

(ii) This report shall be certified as correct by the broker or brokers with whom the applicant has been associated, provided however, that upon preapproval by the commission, the applicant may verify that the report is correct in an alternative manner;

(iii) The broker experience requirement may be modified or reduced, in whole or in part, at the discretion of the commission, based upon the applicant's educational background, or experience in related or affiliated business activities;

(iv) The commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable;

(b) Designate a physical office location and a business name. The commission may refuse to issue a license to any person if the business name is the same as that of any person whose license has been suspended or revoked or is so similar as to be easily confused with another licensee's name by members of the general public. However, nothing in

this subsection shall restrict an individual from obtaining a license in his or her own legal name.

(c) If currently licensed in Idaho as a salesperson and applying for a license as an Idaho broker or associate broker, the individual shall submit a new fingerprint card for processing and pay associated fees.

Jeanne Jackson-Heim
Executive Director
Idaho Real Estate Commission

MEMORANDUM

TO: Chairman Brungardt
Committee on Federal and State Affairs

FROM: Carmen Alldritt, Director
Division of Vehicles

DATE: March 6, 2007

RE: HB 2390

A few short years ago a Driver's license (DL) was just that, a license to drive. Today a DL or Identification Card (ID) is the most important identity document a person can have in their possession. Therefore, it has become paramount for the Department of Revenue to develop, maintain and enhance the policies, procedures and processes used to ensure that the DL/ID documents that we issue meet existing standards. HB2390 will assist the Department to detect, prevent and proactively pursue applicants who attempt to defraud the system.

Application for a DL or ID has become the first step in having the ability to open a bank account, fly on a plane, cash a check, apply for government programs, even apply for a job. As the issuing agent, KDOR's responsibility has grown in importance to ensure the issuance of a secure identity document, issued only to the appropriate person and issued from a secure environment. The department strives everyday to ensure the DL/ID applicant is indeed, who they say they are. Among the requirements, applicants must provide the state with proof of identity, Kansas residency, lawful presence in the United States and a verifiable Social Security Number.

As many of you know we went to a central issue DL/ID process approximately 2 years ago. At that time tools became available which have enhanced our ability to detect fraud. With those systems in place we've become more savvy at detecting and tracking fraudulent activities.

The primary focus of House Bill 2390 is to strengthen existing state requirements that an applicant prove age, lawful presence, identity and Kansas residence. The bill achieves this goal by providing agents of KDOR with law enforcement authority to investigate

DIVISION OF VEHICLES
DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588
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Sen Fed & State

Attachment 5
3-6-07

fraudulent applications. The bill also heightens the level of security and training the Division of Motor Vehicles must maintain with regard to its own employees and agents who manufacture, process, and distribute DL/ID's.

The House was diligent in working H2390 and as a result, it comes to you in very good shape. The Department of Revenue supports it completely. However, there are two technical amendments I would like to offer at the end of my testimony which arose as a result of newly released draft federal regulations regarding the REAL ID requirements.

Although this bill creates a legal framework for coming into compliance with the REAL ID Act, the bill does NOT address many of the fiscal concerns that will inevitably arise from the federal requirements. We are NOT addressing fiscal matters at this time because of the current, dynamic nature of REAL ID Act, for example:

- There is existing legislation before the Federal legislative branch attempting to modify the REAL ID provisions.
- The Division is still awaiting a finalized version of DHS regulations.
- Other states have raised significant concerns.

Kansas started this process with an advantage over many other states, because we already require proof of lawful presence. Furthermore, the State has previously adopted a central issuance system for distributing DL/ID rather than an immediate, over the counter process for distribution.

While I am not today asking this Committee for additional funding to cover the anticipated costs of complying with the REAL ID Act, Mr. Chairman, I believe it is my responsibility to advise you and the people of Kansas that we need to begin preparing for some inconveniences when securing driver's licenses and identification cards under Real ID when it is fully implemented. The price we all will have to pay for increased security may be longer waits for new or renewing licenses, higher costs to the applicant, and increased documentation requirements. The legislature will have to find ways to fund these additional requirements, which could be for increased staffing at the DL centers, computer systems, etc. We have not been able to put a number on these costs, yet, but the newly released regulations seem to indicate that our current appropriations will be insufficient.

For example, to renew my DL in 2009 I will need to provide documentation of who I am and where I live. It makes no difference that I've been a Kansas driver since I was 15 years old. I was born in 1951 and have one of those birth certificates that is black with white writing and a raised seal. I will need to get a certified birth certificate from Vital

Statistics. I got married so I'll need to provide my marriage license to verify the name change. This will have an even greater impact on those that have had their name changed because of divorce, adoption or any other legal action. At the time of renewal I'll have to wait for the examiner to make sure I've got everything I need and then the examiner will scan all documents into the system to be attached to my DL record. You can see how this will take more time at the counter, will require the DMV to store the records electronically (more storage systems and connectivity), and will increase the costs, as well as the hassle. So I'm starting now to remind people to check to see where YOUR information is and determine what you'll need to secure or replace prior to renewing your DL.

Not only will the impact be felt by each applicant, many state and local agencies, courts and other services will experience a significant increase for the production of certified documentation.

Finally, I would request the Committee consider two changes to the House Bill. The first requested change springs from the recently released draft regulations proposed by the Department of Homeland Security. The change removes existing photo exemptions and mandates that all applicants for driver's licenses and identification cards submit to facial image capture. (See Sec. 5(a)). The second change is a technical one that limits the term "state" to mean a State of the United States and recognized territories. (See Sec. 3(a)(5)).

Thank you for your consideration to approve HB 2390 with the two changes.

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2390

By Committee on Veterans, Military and Homeland Security

2-5

12 AN ACT providing for improved security for drivers' licenses and iden-
13 tification cards ~~in compliance with the federal REAL ID Act of 2005;~~
14 giving the secretary of revenue authority to appoint law enforcement
15 officers to enforce certain laws; giving the secretary of revenue au-
16 thority to issue subpoenas in the investigation of driver's or identifi-
17 cation card fraud; amending K.S.A. 8-234a, 8-246, 8-249, 8-250, 8-
18 260, 8-1326 and 8-1332 and K.S.A. 2006 Supp. 8-240, 8-243, 8-247,
19 8-2,135, 8-1324, 8-1325, 74-2012 and 74-5602 and repealing the ex-
20 isting sections.

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

22 New Section 1. (a) The division of vehicles of the department of
23 revenue shall subject all persons and examiners authorized to manufac-
24 ture, produce or issue drivers' licenses and identification cards to appro-
25 priate security clearance requirements, as defined by rules and regula-
26 tions adopted by the secretary of revenue. To insure appropriate security
27 clearance requirements, the division of vehicles may require fingerprint-
28 ing of any person authorized to manufacture, produce or issue drivers'
29 licenses and identification cards. The division of vehicles may submit such
30 fingerprints to the Kansas bureau of investigation, federal bureau of in-
31 vestigation or other law enforcement agency for the purposes of verifying
32 identity, level of security risk and obtaining records of criminal arrests
33 and convictions. Any person who is determined to be a security risk by
34 the division of vehicles shall not be eligible to manufacture, produce or
35 issue drivers' licenses or identification cards.

36 (b) The division of vehicles shall establish ~~fraudulent document rec-~~
37 ~~ognition~~ training programs for employees who engage in the issuance of
38 drivers' license and identification cards **regarding document recogni-**
39 **tion and federal rules used to determine lawful presence.**

40 (c) The division of vehicles shall ensure the physical security of lo-
41 cations where drivers' licenses and identification cards are produced and
42 the security of document materials and papers from which drivers' li-
43

1 censes and identification cards are produced.

2 (d) In the event that a social security account number is already reg-
3 istered or associated with another person to whom any state has issued a
4 driver's license or identification card, the division of vehicles shall resolve
5 the discrepancy and take appropriate action.

6 (e) The division of vehicles shall retain any documentation presented
7 to secure a license or identification card when the division of vehicles has
8 reasonable grounds to believe the documentation or the application is
9 fraudulent.

10 (f) The division of vehicles may disclose motor vehicle records, in-
11 cluding photographs or digital images maintained in connection with the
12 issuance of drivers' licenses, to ~~other states and federal agencies when~~
13 ~~required by the REAL ID Act of 2005, Pub. L. No. 109-13, § § 201~~
14 ~~through 205.~~ **any federal, state or local agency, including any court**
15 **or law enforcement agency, to assist such agency in carrying out**
16 **the functions required of such governmental agency. In January**
17 **of each year, the division shall report to the house committee on**
18 **veterans, military and homeland security regarding the utilization**
19 **of the provisions of this subsection.**

20 New Sec. 2. (a) The secretary of revenue or the secretary's designee
21 may issue subpoenas to require the attendance of any witnesses and the
22 production of any records, books, papers and documents that is consid-
23 ered necessary for the investigation of driver's license fraud and to: (1)
24 Ascertain the eligibility of an applicant for a Kansas driver's license or
25 identification for such license or identification card; (2) ascertain the el-
26 igibility of a holder of a Kansas driver's license or identification card for
27 such license or identification card; (3) determine whether a person's iden-
28 tity has been stolen by a person in Kansas; (4) facilitate the investigation
29 of suspected fraudulent activity with regard to obtaining a Kansas driver's
30 license or identification card; (5) facilitate the investigation of violations
31 of the licensure of vehicle sales and manufacturing statutes in article 24
32 of chapter 8 of the Kansas Statutes Annotated; or (6) facilitate the inves-
33 tigation of vehicle title and registration fraud. Subpoenas so issued may
34 be served by any law enforcement officer, in the same manner as similar
35 process in the district court. Any person who testifies falsely, fails to ap-
36 pear when subpoenaed or fails or refuses to produce material pursuant
37 to the subpoena shall be subject to the same orders and penalties to which
38 a person before a court is subject. Any district court of this state, upon
39 application of the secretary of revenue, may in its discretion compel the
40 attendance of witnesses, the production of material and the giving of
41 testimony before the secretary of revenue, by an attachment for contempt
42 or otherwise in the same manner as production of evidence may be com-
43 pelled before the district court. Agents designated by the secretary of

revenue are hereby vested with the power and authority of peace and police officers, in the execution of the duties imposed upon the secretary of revenue in chapters 8 and 79 of the Kansas Statutes Annotated.

(b) Each agent designated by the secretary under subsection (a), shall have the authority to make arrests, conduct searches and seizures and carry firearms while investigating violations of laws administered by the secretary of revenue, director of vehicles and direction of taxation and generally to enforce all the criminal laws of the state as violations of those laws are encountered by such agents during the routine performance of their duties. No agent of the secretary shall be certified to carry firearms under the provisions of this section without having first successfully completed the training course or courses prescribed for law enforcement officers under subsection (a) of K.S.A. 74-5604a, and amendments thereto. The secretary may adopt rules and regulations prescribing other training required for such agents or employees.

(c) Each agent designated by the secretary shall: (1) Be vested with law enforcement authority; (2) be in the classified service under the Kansas civil service act; (3) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment as law enforcement officer under the authority of the secretary of revenue; (4) be a certified law enforcement officer or have one year of investigative experience or, in lieu thereof, a bachelor's degree from an accredited university or college.

Sec. 3. K.S.A. 8-234a is hereby amended to read as follows: 8-234a. (a) As used in the motor vehicle drivers' license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) "Drivers' license examiner" or "examiner" means a drivers' license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant to the authority granted by this act, to accept applications for drivers' licenses and administer the examinations required for the issuance or renewal of drivers' licenses;

(2) "nonresident" means every person who is not a resident of this state. For the purposes of the motor vehicle drivers' license act any person who owns, rents or leases real estate in Kansas as such person's residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls such person's children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act;

and

(3) "patrol" means the state highway patrol; ~~and~~

(4) "address of principal residence" means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's address of principal residence.

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) of this section.

Sec. 4. K.S.A. 2006 Supp. 8-240 is hereby amended to read as follows: 8-240. (a) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. ~~The applicant also shall be required to pay for the costs associated with the production of the license or instruction permit.~~ If the applicant is not required to take an examination the examination fee shall not be required. The examination shall consist of three tests, as follows: (1) Vision; (2) written; and (3) driving. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of \$3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period, shall be required to wait a period of six months from the date of the last failed examination before additional examinations may be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally ap-

; and (5) "state" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

W. Paul Degener
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HB 2390

7

Mr. Chairman, members of the committee. My name is Paul Degener, I am president of Citizens for Immigration Reform, a fledgling grass roots organization based in Topeka. Our organization is made up of 85 members. Our primary goal at this time is to support legislation that would require proof of citizenship when registering to vote. We have taken this stand because of the current invasion of illegal aliens into our country and state and the defiant attitude of many of those invaders. Our organization **IS NOT** opposed to controlled legal immigration. Our efforts are directed toward those who would enter our country illegally with the intentions of disrupting and overthrowing our form of government. Our organization does support this legislation.

As a result of the Motor Voter Provisions of federal law, any time a person applies for a driver's license he or she may automatically register to vote. My remarks will be confined to page 4, Sect. 4 (b) (2) of this legislation.

I will not take up your time explaining how our group came into being, but we have found that our voter registration system in the state of Kansas is lacking. We feel that because the normal voter registration procedures and the application for a Kansas Driver's License/voter registration should be closely coordinated.

In short, we support this legislation. We feel there are two additional documents that should be added to the list when applying for a driver's license. We would include in the documentation requirements a valid state birth certificate or naturalization papers. This legislation provides for a birth certificate when applying for a duplicate identification card, but not for the application for a driver's license.

The provisions of this legislation are necessary if we are to preserve our current election process. I have no proof that there are fraudulent votes being cast, but I do know that the current standards are inadequate. Most people lock their homes when they leave. Not because they have been robbed, but because there are folks out there who will take advantage of an easy target. The same is true of our current voting system. The door is unlocked inviting those who would like to take advantage of the unlocked door and unlawfully vote in our elections.

I certainly hope that you will vote in favor of this legislation.

I would like to thank you for your time and will stand for questions.