

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on March 13, 2007 in Room 234-N of the Capitol.

All members were present except:

James Barnett- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Ken Wilke, Office of Revisor of Statutes

Bev Beam, Committee Secretary

Conferees appearing before the committee:

Ron Gaches, Kansas Association of Mortgage Brokers; Luke Bell, Association of Realtors and Doug Wareham, KBA

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on:

**HB 2111 - concerning disclosure real estate loan amount.**

Ron Gaches, appearing on behalf of the Kansas Association of Mortgage Brokers, testified in support of HB 2111. Mr. Gaches said this bill was introduced to address confusion caused by language that was passed last year amending K.S.A. 2006 Supp. 58-2344. The language resulted in uncertainty about what information could and could not be provided an appraiser conducting a traditional real estate mortgage. He said passage of HB 2111 explicitly provides on page one, lines 21-23 that "A lender may provide a copy of the sales contract for use by the appraiser in accordance with uniform standards of professional appraisal rules." He said there is one technical correction to the bill. On line 23, the word "rules" should be replaced by the word "practice." (Attachment 1)

Luke Bell, KAR Director of Governmental Relations, also testified in support of HB 2111. Mr. Bell stated that in order to comply with both federal and state law, real estate appraisers are required to have access to and examine the sales contract during the real estate appraisal process. When lenders were forced by HB 2735 to stop providing the real estate appraiser with a copy of the real estate sales contract, real estate appraisers were no longer able to conduct appraisals in compliance with the requirements under K.S.A. 58-4121 and Standards Rule 1-5 of USPAP. HB 2111 would simply specify that the lender is allowed to provide the real estate appraiser with a copy of the real estate sales contract in compliance with USPAP. (Attachment 2)

Doug Wareham, Senior Vice President-Government Relations testified in support of HB 2111. He reiterated the testimony by Ron Gaches and Luke Bell. (Attachment 3)

Following Q & A, the Chair closed the hearing on HB 2111.

Action on:

The Chair asked for action on HB 2111. **Senator Barone moved to amend the technical language in HB 2111 as presented. Senator Steineger seconded. Motion carried.**

**Senator Steineger moved favorable passage of HB 2111 as amended. Senator Barone seconded. Motion carried.**

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 13, 2007 in Room 234-N of the Capitol.

Action on:

The Chair asked Brad Smoot to clarify questions raised at the March 6, 2007 hearing on HB 2274. Mr. Smoot's testimony is attached. (Attachment 4)

Following additional questions and answers, **Senator Wysong moved to pass HB 2274 out favorably. Senator Schmidt seconded. Motion carried.**

**Senator Barone moved to approve the minutes of March 8, 2007. Senator Wysong seconded. Motion carried.**

The meeting adjourned at 10:20 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

DATE: 3-14-07

NAME	REPRESENTING
Alex Kotovantz	P.I. A
Davy Wareham	Kansas Bankers Assn.
Bill Sirend	NAIP
Will Deer	Federico Consulting
Haley Davlee	KS Credit Union Assn.
Sony Allen	Office of State Bank Comm.
Kevin Glendening	" "
Tom Gachus	KAMID & KAES
Brad Smoot	Wheatlands
Kathy Olsen	KS Bankers Assn.
Matthew Goddard	Heartland Community Bankers Assoc.



# GACHES, BRADEN, BARBEE & ASSOCIATES

PUBLIC AFFAIRS & ASSOCIATION MANAGEMENT

825 S. Kansas Avenue, Suite 500 ♦ Topeka, Kansas 66612 ♦ Phone: (785) 233-4512 ♦ Fax: (785) 233-2206

**Senate Financial Institutions and Insurance Committee  
Regarding HB 2111: Appraisal Fraud  
Testimony of Ron Gaches  
On behalf of the Kansas Association of Mortgage Brokers  
Tuesday, March 13, 2007**

Thank you Chairman Teichman and members of the Committee for this opportunity to speak in support of passage of HB 2111 a proposal concerning appraisal fraud. This bill was introduced to address confusion caused by language that was passed last year amending KSA 2006 Supp. 58-2344. This appraisal fraud language was amended onto a bill last year that originally dealt with a separate financial services issues authority use of automated valuation methods (AVM) for determining the appraised value of real estate for second mortgages and refinances.

Unfortunately, the language resulted in uncertainty about what information could and could not be provided an appraiser conducting a traditional real estate mortgage. The confusion was shared by lenders, appraisers and mortgage brokers.

Passage of HB 2111 explicitly provides on page one, lines 21-23 that "A lender may provide a copy of the sales contract for use by the appraiser in accordance with uniform standards of professional appraisal rules." This authorization is completely consistent with current business practice between lenders and appraisers. In fact, the rules for professional conduct by appraisers actually require them to review the entire sales contract if there is one.

The language on lines 23-24 of the bill were deleted by the House Financial Institutions and Insurance Committee when they determined that it was probably an improper action to require a mortgage broker or lender to modify a sales contract in any way before providing a copy of it to the appraiser as required by the appraisal standards. I have attached a copy of the original House testimony of Shana Sowles, President of the KAMB, in support of deleting the language on lines 23-24. The House Committee made this change.

There is one technical correction that needs to be made to the bill. On line 23, the word "rules" should be replaced by the word "practice."

Thank you for your consideration. We strongly endorse HB 2111 and recommend your passage of the bill.

*FI & I  
3-13-07  
Attachment 1*



*K A N S A S*  
ASSOCIATION *of*  
MORTGAGE BROKERS

Prepared Testimony of Shana Sowles, CRMS  
President  
Kansas Association of Mortgage Brokers  
Regarding House Bill No. 2111  
Before the House Committee on Insurance and Financial Institutions  
Kansas House of Representatives  
Tuesday, January 30, 2007

Thank you Chairman Schultz and members of the committee. I am Shana Sowles, President of the Kansas Association of Mortgage Brokers. Thank you once again for the opportunity to discuss an issue of vital importance to the real estate community. KAMB represents more than 400 members across this great state, representing the interest of the mortgage brokerage industry. KAMB members subscribe to a strict code of ethics and a set of best business practices that promote integrity, confidentiality, and above all, the highest levels of professional service to the consumer.

We would like to thank Chairman Schultz and the members of the Committee for your leadership and interest in real property mortgages and the appropriate disclosures necessary to complete the transactions.

As you are aware, House Bill No. 2111 will amend K.S.A. 2006 Supp. 58-2344. This language has been proposed in an effort to ensure that appraisers cannot be influenced by the lender, as defined in K.S.A. 58-2337, in regards to the preferred or required value of any real estate intended to secure such loan.

The current bill reads, "*A lender may provide a copy of the sales contract for use by the appraiser in accordance with uniform standards of professional appraisal rules as long as the sales contract does not disclose the amount of the proposed real estate loan.*"

It is KAMB's position that real estate contracts address the loan amount as part of the basic purchase contract and then again as part of the financing addendum. If this language passes, there will be greater issues facing all facets of our industry.

Appraisers need the full contract in order to identify whether the financing is conventional or government, whether there are any seller concessions or seller carry backs. KAMB supports legislation that allows the lender to provide a contract to the appraiser so long as there is no intent to influence the value.

However, KAMB cannot support the proposed language as it effectively prevents lenders from providing a copy of the contract to the appraiser, as all standard contracts address the proposed real estate loan.

KAMB does support language that prevents a lender from influencing an appraiser into providing a preferred or required value of real estate. We believe that the bill adequately addresses this concern by adding the language "*with the intent to influence.*" We would also support adding the final sentence as follows: "*A lender may provide a copy of the sales contract for use by the appraiser in accordance with uniform standards of professional appraisal rules.*" *And strike the rest of the proposed sentence as follows: {as long as the sales contract does not disclose the amount of the proposed real estate loan.}*

KAMB requests that the proposed language be revised as suggested above.

Thank you again for the opportunity to express our concerns. I'd be pleased to answer any questions from the committee.



To: Senate Financial Institutions and Insurance Committee  
From: Luke Bell, KAR Director of Governmental Relations  
Date: March 13, 2007  
Subject: **HB 2111** – Ensuring Appraiser Access to the Real Estate Sales Contract

Chairperson Teichman and members of the Senate Financial Institutions and Insurance Committee, thank you for the opportunity to appear before you today on behalf of the Kansas Association of REALTORS® to urge your support of **HB 2111**. KAR is a trade association which has faithfully represented the 10,000 real estate professionals in the state of Kansas for over 85 years.

In the 2006 session, the Kansas Legislature passed **HB 2735** which prohibited a lender from disclosing to a real estate appraiser engaged to appraise property for sale the amount of the proposed loan or the preferred or required value of the property intended to secure the loan. The intent behind this legislation was to prevent a lender from specifically discussing the proposed loan value on a property with the real estate appraiser and pressuring or coercing that appraiser to appraise the property at a specified, pre-determined value.

In order to comply with the requirements of this legislation, a number of lenders refused to provide real estate appraisers with a copy of the real estate sales contract. However, under K.S.A. 58-4121, a state certified real estate appraiser is required to comply with the Uniform Standards of Professional Appraisal Practice (USPAP). Under Standards Rule 1-5 of USPAP promulgated by the Appraisal Foundation pursuant to federal law, when a real estate appraiser is engaged to determine the market value of a property, the appraiser is required to specifically review and analyze a copy of the real estate sales contract.

Therefore, in order to comply with both federal and state law, real estate appraisers are required to have access to and examine the sales contract during the real estate appraisal process. When lenders were forced by **HB 2735** to stop providing the real estate appraiser with a copy of the real estate sales contract, real estate appraisers were no longer able to conduct appraisals in compliance with the requirements under K.S.A. 58-4121 and Standards Rule 1-5 of USPAP.

**HB 2111** would simply specify that the lender is allowed to provide the real estate appraiser with a copy of the real estate sales contract in compliance with USPAP. KAR urges you to support **HB 2111** so that real estate appraisers will be allowed to conduct appraisals in compliance with Kansas state law and USPAP.

*FI&I  
3-13-07  
Attachment 2*

785.267.3610  
VOICE

800.366.0069  
TOLL FREE

785.267.1867  
FAX

3644 SW Burlingame Rd  
Topeka, Kansas 66611  
www.kansasrealtor.com



**Date:** March 13, 2007  
**To:** Senate Financial Institutions & Insurance Committee  
**From:** Doug Wareham, Senior Vice President-Government Relations  
**Re:** House Bill 2111

Madam Chairman and members of the Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). Thank you for the opportunity to appear in support of HB 2111, which would amend K.S.A. 2006 Supp. 58-2344, formerly known as Section 2 of 2006's HB 2735.

Enacted last year, this provision placed restrictions on what a lender could disclose to an appraiser with regard to a real estate loan. In brief, it stated that a lender could not disclose the amount of the proposed real estate loan or the preferred value of any real estate intended to secure the loan. The intent of this amendment was to prevent collusion between the lender and the appraiser on the expected appraised amount of the property, and so to further promote accurate appraisals. The banking industry has been operating under a similar rule since the 1990's. As part of a federal law (FIRREA), banks and savings and loans are prohibited from sharing information with an appraiser that might suggest or influence the outcome of the appraisal.

However, since the enactment of this provision, we have heard from several interested parties who question whether this provision allows a lender to provide a copy of the sales contract to an appraiser. Of special concern to us was the fact that the Uniform Standards of Professional Appraisal Practice appears to require an appraiser to use the sales contract to determine accurate comparables when making an appraisal of property. With this information, it became apparent to us that we needed to clarify the issue in order to preserve the accuracy and reliability of appraisals.

Thus, the introduction of HB 2111 was our effort to clarify this issue while still preserving the intent of the original law: to promote accurate appraisals. As you can see, the bill strengthens the anti-collusion sentiment by adding the words, "with the intent to influence". The bill also adds a sentence which specifically allows a sales contract to be shared with the appraiser in accordance with existing appraisal standards.

HB 2111 was amended by the House Insurance & Financial Institutions Committee to address concerns raised by the Kansas Mortgage Brokers Association (KMBA). KBA is comfortable with the amendments adopted by the House. We do, however, have an amendment (correction) we would like to offer at this time. Attached to my testimony is a balloon amendment that would strike the word "rules", found on line 23 and replace it with the word "practice". The word "practice" is simply the correct term when referencing the Uniform Standards of Professional Appraisal Practice and we apologize for this oversight when originally drafting H.B. 2111.

Thank you for the opportunity to appear in support of H.B. 2111. We encourage this committee to act favorably on this bill, once amended with our attached balloon. I would be happy to stand for questions.



As Amended by House Committee

Session of 2007

HOUSE BILL No. 2111

By Committee on Insurance and Financial Institutions

1-18

10 AN ACT relating to mortgages of real property; concerning disclosure  
11 real estate loan amount; amending K.S.A. 2006 Supp. 58-2344 and  
12 repealing the existing section.  
13

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

15 Section 1. K.S.A. 2006 Supp. 58-2344 is hereby amended to read as  
16 follows: 58-2344. No lender, as defined in K.S.A. ~~58-2237~~ 58-2337, and  
17 amendments thereto, or any person acting on behalf of a lender shall  
18 disclose to an appraiser or other person engaged to determine the ap-  
19 praised value of real estate, the amount of a proposed real estate loan ~~or~~  
20 *with the intent to influence* the preferred or required value of any real  
21 estate intended to secure such loan. *A lender may provide a copy of the*  
22 *sales contract for use by the appraiser in accordance with uniform stan-*  
23 *dards of professional appraisal rules as long as the sales contract does not*  
24 *disclose the amount of the proposed real estate loan.*

25 Sec. 2. K.S.A. 2006 Supp. 58-2344 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its  
27 publication in the statute book.

practice

## 2007 HB 2274 Cost/Benefit Impact Summary

(prepared by Brad Smoot, Legislative Counsel  
Blue Cross Blue Shield of Kansas and  
Wheatlands Administrative Services)

### FACTS

- Blue Cross and Blue Shield of Kansas has administered Medicare Part A and Part B for 40 years
- Medicare Modernization Act of 2003 requires competitive bidding process for defined 15 regions throughout country
- Blue Cross and Blue Shield of Kansas established Wheatlands Administrative Services 10/01/06 solely for purposes of this bid
- Wheatlands currently has 340 employees
- Upon bid award Wheatlands workforce would grow to 600 jobs
- If lose bid, all 340 current jobs will go away

### STATE TAX CREDIT PROCESS

- In absence of Wheatlands, Blue Cross and Blue Shield of Kansas (BSBSKS) would be eligible for all incentives (if BCBSKS bid as BCBSKS) and HB 2274 would not be necessary
- Wheatlands qualifies for all incentives and would pass the Job Creation and HPIP tax credits to BCBSKS in exchange for face value, as verified by the Insurance Department and the Department of Revenue
- Wheatlands will use tax credits passed to Blue Cross and Blue Shield of Kansas for negotiating best price; improving chances of winning bid

### LOCAL INCENTIVES

- JOINT ECONOMIC DEVELOPMENT OFFICE (Topeka/Shawnee County)  
\$200,000/year for 5 years

*FI&I  
3-13-07  
Attachment 4*

**Wheatlands Administrative Services, Inc.**  
Summary of Kansas Assistance  
(See proposal for explanation of calculations)

321.5 New Jobs

\$15.4 million Investment

<b><u>Incentives Available to Wheatlands Without HB 2274</u></b>	<b><u>HPIP</u></b>
1. KEOIF	\$ 109,998
2. Impact/Skill Training	\$ 800,000
3. Sales Tax Savings	<u>\$ 1,147,300</u>
<b>Sub-Total</b>	<b>\$ 2,057,298</b>
<b><u>Tax Credits Directly Related to HB 2274</u></b>	
1. Job Creation Tax Credit	\$ 481,500
2. HPIP Credit	<u>\$ 1,535,000</u>
<b>Sub-Total</b>	<b><u>\$ 2,016,500</u></b> (Applied over 5 yrs)
Total Tax Credits or Incentives	<b>\$ 4,073,798</b>
<b><u>Other Costs to State</u></b>	
1. Costs of Services for the firm and new residents	\$ 1,830,092
2. Costs of Educating New Students	<u>\$ 964,213</u>
<b>GRAND TOTAL</b>	<b>\$ 6,868,103</b>

**COST/BENEFIT IMPACT**

Based on 321.5 new jobs and \$15.4 million investment (equipment, leased space improvements) by Wheatlands and state credits/costs described above.

<b><u>Total Benefit</u></b>	<b><u>Total Cost</u></b>	<b><u>Net Benefit</u></b>	<b><u>Payback Period</u></b>
\$11,508,990	\$6,868,103	\$4,640,887	7 years

\* Estimates/calculations provided by Department of Commerce and Department of Revenue

**300 JOBS IMPACT ON LOCAL ECONOMY (Annually)**

- \$55.7 Million in economic activity
- \$16.1 Million in household income
- \$990,069 in local tax revenues

\*\* Local jobs economic impact prepared by Professor Paul F. Byrne, Ph.D., Assistant Professor of Economics, Washburn University School of Business for Greater Topeka Chamber of Commerce.