

Approved: 3/6/08

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:17 A.M. on February 21, 2008 in Room 784 of the DSOB.

All members were present except:

Bob Grant- excused
Brenda Landwehr- excused
Candy Ruff- excused
Kasha Kelley- excused
Louis Ruiz- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Renaë Jefferies, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Representative Jason Watkins
Representative Terrie Huntington
Richard Routmann, Prairie Village
Eric Stafford, Associated General Contractors
Andy Sanchez, AFL-CIO
Greg DeBacker

Others attending: See attached list.

The Chairman opened the hearing on **HB 2826 Homeowners, apartment owners associations; elections other procedures.**

Renaë Jefferies presented an explanation of the bill. (Attachment 1). It dealt with amending the by-laws of the association and appointing one or more neutral and independent election inspectors.

Representative Tietze asked if the appointment of neutral and independent election inspectors was a requirement or an option. Renaë indicated that the bill made it a requirement. She further asked if it was known how difficult it was or what it cost. Renaë said she did not know except that the Fiscal Note indicated that there was no further cost from the bill.

Renaë Jefferies explained the effect of HB 2445 Homeowners associations; voting and other procedural requirements (Attachment 2). There were no questions.

Renaë Jefferies presented an explanation of HB 2837 Homeowners organization; mediation of disputes; attorney general duties (Attachment 3). It establishes the homeowners' association dispute resolution act. It spells out the mediation process and the requirement for the Attorney General to develop written educational materials and an interactive website. There were no questions.

Representative Jason Watkins presented testimony in support of HB 2826. (Attachment 4). He spoke of the similarity of Home Owners Associations to a small government. The dues are similar to taxes. They pass and enforce rules and regulations. Despite this, they have very few laws regarding their operation.

Representative Goico spoke of his experience with an HOA in regard to the danger of wood shake roofs. He wanted to know if they had consulted an attorney regarding changing covenants. Jason replied that there is a mechanism for changing covenants. Representative Goico replied that they often require 100% agreement of the tenants. Jason said that this was not covered in the bill.

Representative Pauls asked who decided that the Attorney General choose the mediator. Jason did not know the source of that requirement but did comment that many times the HOA has large funds available to it and the home owner has very little so that the HOA usually wins. However an independently chosen mediator

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:17 A.M. on February 21, 2008 in Room 784 of the DSOB.

should solve that problem.

Representative Terrie Huntington presented testimony in favor of all three bills before the committee (Attachment 5). She spoke of the aging population which, more and more, is moving into gated communities patio homes and apartments. Many of these are governed by Homes Associations. These bills attempt to address a series of problems incurred by the residents whose Home Associations circumvent the bylaws which often prevents resolution to grievances brought before the Board. She indicated that she had discussed the Attorney General requirements with the Attorney General and Linda Shepherd and their response was positive. The Attorney General did not anticipate any increased expense because of the bills.

Richard Routman also presented testimony in favor of the bills (Attachment 6). Without this legislation a homeowner has only two choices if the Board falls short of its obligation. The can begin litigation or try to make changes through annual elections. This legislation will help achieve balance by putting in place structures which will help the parties resolve their own disputes without litigation and be better informed about their rights and obligations without contacting attorneys.

Representative Goico asked a question of Representative Huntington about the history of preventing minorities from residing in gated communities or apartments. Terrie replied that the bills were not addressing that situation. This is an addition to the laws to help tenants resolve conflicts out of court.

Representative Quigley asked a question of Richard Routman about the cost of mediation. He said that it depends upon the mediator. It usually runs from \$100 to \$200 per hour.

Representative Roth asked if there were Fiscal Notes on the bills. Terrie said there were and they did not indicate any further cost to the state.

Representative Tietze asked Richard Routman if the parties do not agree after mediation what options were open to them. He indicated that they still had all the options available to them before mediation, the bills do not remove options.

Representative Brunk asked Terrie if they had asked developers and builders what their reactions were to the bills. Terrie said that the bills do not address covenants but simply provide a way to mediate disputes.

The Chairman closed the hearing on **HB 2826, HB 2837 and HB 2445** and opened the hearing on **HB 2847 Cities and municipalities, examinations for plumbers, electricians and heating, ventilation and air conditioning contractors and journeymen.**

Rena Jefferies presented a short memorandum explaining the bill (Attachment 7). The bill changes the requirement that tests be from Block and Associates to now require that they be from any nationally recognized testing organization.

Eric Stafford presented testimony as a proponent of HB 2847. (Attachment 8). It indicated that the bill would update current law to match industry-recognized testing agencies ICC (International Code Council), IAPMO (International Association of Plumbing and Mechanical Officials) and Thomson Prometric (formerly Block and Associates), for mechanical contractors, electrical contractors and plumbing contractors.

Representative Gordon asked what had prompted the introduction of the bill. Eric replied that it was to update the language of the statute to reflect current names of testing agencies.

Representative Grange presented his Balloon Amendment (Attachment 9). The balloon deleted the name Block and Associates and supplied the names of the three testing agencies listed above.

Representative Gordon asked why this was necessary. Representative Grange gave the example of El Dorado not accepting Wichita's credentials and how this happens in many communities. A standardized test was requested to do away with this problem. Block had become the standard but they changed their name, making the Statute obsolete.

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:17 A.M. on February 21, 2008 in Room 784 of the DSOB.

Andy Sanchez presented testimony as neutral on the bill (Attachment 10). He said that their concern was that the testing agencies be named in the bill. This was to prevent just anyone naming themselves as a testing agency.

Greg DeBacker presented his testimony as neutral on the bill (Attachment 11). He said that adopted codes sometimes have to be abandoned in favor of manufacturers installation instructions. He advised that "Nationally recognized" be deleted from the bill and questioned why his company could not do business in the entire state of Kansas. He said that he knew of people who could do the work but could not pass the test.

Representative Gordon asked if it was a written test. He replied yes, it was written.

Representative Tietze asked Andy Sanchez if he was comfortable with Representative Grange's balloon. He said that he was comfortable with it.

Representative Pauls asked Greg DeBacker about the Uniform Billing Code, was it possible to add the code to the bill. At that point Michael Davis of Miami county, Kansas stood to answer the question. He said that the Uniform Billing Code was no longer applicable since it had been incorporated into the ICC codes.

Representative Grange said that the bill does not deal with codes, the bill deals with testing. The concern is that the tests be recognized by all of Kansas.

Representative Quigley asked that if the company name had been changed some years ago how did people get their license. Representative Grange said that it was only a technical change, it was only a name change. Representative Quigley further asked if it was a national exam. Representative Grange said that yes, it was recognized in other communities.

Representative Bunk ask what the effect would be of a company changing it's name. Representative said that using the word "or" in the bill allows choice.

The Chairman closed the hearing on **HB 2847**. He reminded the committee that we are meeting tomorrow, Friday, February 22, 2008 and Monday thru Wednesday next week.

The committee was adjourned at 10:38 A.M.

COMMERCE & LABOR COMMITTEE

DATE: 2-21-08

NAME	REPRESENTING
Greg DeBacker	De Backer's Inc.
Karl Wenger	Kearney & Associates
RICHARD ROUTMAN	SELF
Andy Sanchez	KS AFL-CIO
Michael Davis	MIAMI COUNTY KS
Kathleen Litgen	KBIA
Melissa Wangemann	Sec of State
Larry R Bass	LKM
T. Euan Patterson	Sen. Dick Schmidt
Leigh Keck	Rep. Gordon
Lindsey Douglas	Hein Law Firm
Martha Sue Smith	KMNH
Eric Stafford	AGC of KS
Dan Murray	Federico Consulting

Office of Revisor of Statutes
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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: February 21, 2008
Subject: House Bill No. 2826

HB 2826 is an act concerning for-profit homeowners associations, non-profit homeowners' associations and associations of apartment owners relating to duties, required procedures and attorney fees.

As defined in this act, "non-profit homeowners associations" means those non-profit organizations exempt from federal income tax pursuant to section 528 of the federal internal revenue code and "associations of apartment owners" means all of the apartment or condominium unit owners acting as a group in accordance with the bylaws and declaration."

Pursuant to section 1, the board of directors of may amend the by-laws of such associations only upon the approval of a majority of homeowners or apartment owners voting at a duly-noticed and duly-constituted homeowners or apartment owners meeting and may not vary any obligations imposed by state law on the association or its board of directors by creating or amending by-laws or by any other authorization. All elections for membership on the board of directors must be by secret ballot and conducted in a manner to assure the integrity of the election process. All meetings of the board of directors shall be subject to the Kansas open meetings act. Additionally, the boards shall disclose to the homeowners or apartment owners within 15 days any proposed assessments, special charges or fees of general application. All homeowners or apartment owners shall be given an opportunity to comment on such proposals. Assessments, charges and fees shall be equitable and proportionate to the respective interests of the homeowners or apartment owners.

Pursuant to section 2, all associations adopt rules to:

- Appoint one or more neutral and independent election inspectors to conduct the election of directors in a manner to insure the integrity of the election process no later than 45 days prior to the date of the election;
- provide homeowners or apartment owners copies of association records, including minutes of meetings, budget and financial records and a list of all the homeowners or apartment owners in the association along with such individuals' current mailing addresses, no later than 10 days following the receipt of a written request by the a homeowner or apartment owner for any such document;
- adopt a voluntary and nonbinding dispute resolution process for disputes between and among the association and such association's homeowners or apartment owners; and
- provide homeowners and apartment owners with information concerning their rights under this act.

Section 3 provides that in a civil action by a homeowner or apartment owner against an association covered under this act, should the homeowner or apartment owner win, the court shall award such homeowner or apartment owner actual costs and expenses, including reasonable attorney fees.

The act takes effect upon its publication in the Kansas register.

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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: February 21, 2008
Subject: House Bill No. 2445

HB2445 is an act concerning non-profit homeowners' associations.

"Non-profit homeowners associations" means those non-profit organizations exempt from federal income tax pursuant to section 528 of the federal internal revenue code.

Pursuant to section 1, the board of directors of may amend the by-laws of such association only upon the approval of a majority of the residents voting at a duly-noticed and duly-constituted resident meeting and may not vary any obligations imposed by state law on the association or its board of directors by creating or amending by-laws or by any other authorization. All elections for the membership on the board of directors shall be by secret ballot and conducted in a manner to assure the integrity of the election process. All meetings of the board of directors shall be subject to the Kansas open meetings act. Additionally, the board shall disclose to the residents, within 15 days, any proposed assessments, special charges or fees of general application. All residents shall be given an opportunity to comment on such proposals. Assessments, charges and fees shall be equitable and proportionate to the respective interests of the residents.

Pursuant to section 2, all associations shall, within 60 days of the effective date of the act, adopt rules to:

- Appoint one or more neutral and independent election inspectors to conduct the election of directors in a manner to insure the integrity of the election process no later than 45 days prior to the date of the election;

- provide residents copies of association records, including minutes of meetings and budget and financial records, no later than 10 days following the receipt of a written request by a resident;
- adopt a voluntary and nonbinding dispute resolution process for disputes between and among the association and its residents; and
- provide residents information concerning their rights under this act.

The act shall take effect upon publication in the Kansas register.

The fiscal note on this bill reflects that there would be no fiscal effect on the state budget should it pass.

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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: February 21, 2008
Subject: House Bill No. 2837

HB2837 establishes the homeowners' association dispute resolution act.

Pursuant to section 1, the act concerns non-profit homeowners' associations with a annual operating budget of \$100,000 or more. "Non-profit homeowners associations" means those non-profit organizations exempt from federal income tax pursuant to section 528 of the federal internal revenue code.

"Resident" means a real-property owner or lessee whose property is subject to the jurisdiction of the homeowner's association.'

Pursuant to section 2, upon written request of a resident, the association must participate in the mediation process. However, should the association make a written request for mediation with a resident, the resident's participation is optional. Should the parties agree to mediation, they have 60 days to pick out a mutually agreeable mediator. If the parties cannot agree upon a mediator, one will be designated by the Attorney General. The Attorney General is required to maintain a list of qualified mediators for the purposes of this act.

Prospective mediators are required to disclose to the parties the mediator's education, training, relevant experience and professional and community affiliations, the names of any prior participants in mediation conducted by the mediator willing to act as references and any possible conflict of interest. Mediation shall not exceed two hours unless the parties agree to a longer time in advance of the mediation and the costs of the mediation shall be paid 2/3 by the association 1/3 by the resident. Parties may be assisted by legal counsel, at their own expense. Settlement

agreement terms shall be open to disclosure to any resident.

Pursuant to section 3, the Attorney General shall develop written educational materials and an interactive website for the purpose of providing guidance to homeowners' associations and their residents regarding:

- Election procedures;
- the appropriateness of executive sessions during board meetings;
- the necessity of providing advance notice to residents prior to board consideration of certain matters;
- prompt disclosure of board minutes to residents;
- the necessity of providing access of residents to association records;
- appropriate procedures for the approval of amendments to by-laws;
- conflict of interest rules in connection with association business and resident concerns;
- appropriate rules regarding the possible shifting of legal costs to and among residents, directors personally and associations;
- appropriate utilization of mediation procedures; and
- other matters deemed appropriate in the overall governance and operation of a homeowners' association.

Residents are to be notified by their homeowners' association regarding the availability of the educational materials and the website no later than the next annual meeting following the effective date of this act.

The act takes effect upon publication in the Kansas register.

JASON P. WATKINS

REPRESENTATIVE, 105TH DISTRICT

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
AGRICULTURE AND NATURAL RESOURCES
APPROPRIATIONS
JUDICIARY

February 21, 2008

Mr. Chairman and Members of the Committee,

Thank you for allowing me to testify in support of HB 2826. I have had the opportunity to experience both the benefits and disadvantages of Home Owners Associations. I have also had the opportunity to serve as an officer and president of a Home Owner's Association. These experiences have allowed me to realize that HOAs serve a purpose and are necessary in many neighborhoods and developments. However, I have also come to the realization that in too many instances a select few people can make life unnecessarily difficult.

Home Owners Associations are similar to small governments. In fact, their decisions probably impact the daily lives of those they govern more than most governmental units. They certainly have the ability to incite anger and emotion as a result of their decisions and approach to governance. They set dues similar to taxes. They pass and enforce rules and regulations and set and approve building standards. Despite this, they have very few laws regarding their operation.

Last session we required HOAs to hold open meetings and supply their members with financial information upon request. Along these same lines HB 2826 attempts to inject a little more fairness into HOA and member interactions and provide for equal footing.

Thank you for your consideration.

Regards,

Jason Watkins

House Commerce & Labor

Date: 2-21-08

Attachment # 4

STATE OF KANSAS

TERRIE W. HUNTINGTON
REPRESENTATIVE, 25TH DISTRICT
5701 MISSION ROAD
FAIRWAY, KANSAS 66205-3149
(913) 677-3582



TOPEKA

HOUSE OF
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COMMITTEE ASSIGNMENTS
VICE-CHAIR: ECONOMIC DEVELOPMENT
MEMBER: COMMERCE & LABOR
TRANSPORTATION
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

February 21, 2008

Testimony for HB 2826, HB 2837, HB 2445
Homes Association Duties and Dispute Resolution Process

Chairman Brunk, Vice Chairman Kiegerl, and Minority Chairman Ruiz:

Thank you this morning for your consideration of these three bills pertaining to Homes Associations. As you are no doubt aware, with an aging population, more and more Kansas residents are choosing to live in maintenance free developments, whether they be gated communities, patio homes, or apartments. Many of these residences are governed by Homes Associations, for which residences pay into a maintenance fund large sums of money in order to receive snow removal services, lawn and landscaping services, and street maintenance. These associations are governed by a board of directors elected by members of the Homes Association, usually with annual or bi-annual elections.

The bills before you today attempt to address a series of problems incurred by residents of Homes Associations whose Board of Directors circumvent the bylaws, which often times prevents resolution to grievances brought before the Board.

HB 2826 and 2837 directs homes association governing board to abide by their bylaws, to hold open meetings and elections, and if not, provides a method through the Attorney General's office, Consumer Protection Division, to mediate disputes so that residences may resolve issues without hiring an attorney and resorting to a civil suit.

California, with many gated communities, has put into statute rules and regulations that assist Homes Associations and residents of Homes Associations. These bills address only a small portion of laws that California passed, but would aide both the governing boards and residences when disputes arise.

Thank you.

KANSAS HOUSE OF REPRESENTATIVES
Committee on Commerce and Labor
Hearing on House Bill No. 2837 regarding Homeowners' Associations
February 21, 2008
Topeka, Kansas

Statement of Richard Routman of Prairie Village, Kansas

At the outset, I would like to take the opportunity to thank the committee and especially Chairman Brunk, Vice-Chairman Kiegerl and Ranking member Ruiz for this opportunity. I also want to express my appreciation for the representatives who have sponsored this bill and particularly Representative Huntington for her guidance over the course of the past two years in helping shape and refine this bill.

Before getting into the merits, I would like to provide some context for our discussion. The baby boomers in Kansas, like in the rest of the country, are in the process of migrating from their single family residences to condominiums. As that occurs, it will quickly become apparent to many of them that, as part of their move, they will lose the unfettered right to make decisions concerning their living arrangements which they had as the owners of single family residences. They will learn that the rule-making power governing their property reposes in a homes association board of directors which has significant authority. While boards of homes associations are duty bound to obey state laws and fulfill their fiduciary duties to act in the best interests of the association as a whole, there can be times when that does not happen. And I am not referring to how often the bushes need to be pruned. I am referring to basic governance rights like having access to the records of the association, having a secret ballot election of directors, having a right to obtain minutes of board meetings, having the right to have the rules applied equally to all residents, having the right to amend the by-laws only with the consent of a majority of the residents and not by unilateral action of the board and the like.

If an association board falls short of its obligations, the homeowners currently have a choice. They can commence litigation or they can make changes over time through annual elections. Neither are good choices, especially considering the demographics of the condominium community. The resident population is often elderly, may be on fixed incomes, neighbors understandably do not wish to associate themselves with any controversies, no matter the merits, neighbors do not wish to cause a spike in association assessments to pay for increased legal fees incurred by the association, and often neighbors don't even necessarily know each other. Under these circumstances, it is difficult to mount any popular opposition to questionable board practices. Clearly, there is a need for legislation to help achieve a better balance in the relationship between the association's board and the residents.

This legislation will help achieve that balance by putting into place structures which will help the parties resolve their own disputes without litigation and make the parties better informed about their rights and obligations without necessarily hiring attorneys.

House Commerce & Labor
Date: 2-21-08
Attachment # 6

Statement of Richard Routman
February 21, 2008
Page Two

House Bill No. 2837 has two parts. The first part requires a homeowners' association to participate in a two-hour, non-binding mediation - if requested by a resident to do so - in an attempt to resolve a dispute involving the rights and obligations of the parties. The parties will choose the mediator and if they can't agree, the Attorney General will make the selection. The homeowners association will pay two-thirds of the cost of mediation; the resident will pay the rest. If the parties agree to continue mediating more than two hours, they will have to agree on who pays. The statements made in mediation are confidential under the terms of the Kansas statute regulating mediation. Generally that means that statements made in mediation are not admissible as evidence or subject to discovery. If the case settles, the terms of the settlement must be disclosed to any resident who asks.

This provision is simple. It calls for a reasonable and relatively inexpensive mechanism to help resolve homeowner association disputes in the event direct negotiations fail.

The second part of this bill calls upon the Attorney General to develop written educational materials and an inter-active website addressing a comprehensive list of governance issues and providing guidance on the best practices to be used by homeowners' associations and residents. Associations will be required to advise their residents of the existence of this information. This will provide an easily-accessible tool for residents and board members who wish to know appropriate governance practices. This information will inform the discussions between associations and residents and hopefully will lead to more principled resolutions.

Thank you for your courtesies. I would be happy to respond to any questions.

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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: February 21, 2008
Subject: House Bill No. 2847

HB 2847 amends the statutes regarding the standard examinations required for licensure of plumbers, electrical contractors and electricians and heating, ventilation and air conditioning contractors, masters and journeymen heating, ventilation and air conditioning mechanics. The bill changes the requirement that such tests be from Block and Associates to now require that they be from any nationally recognized testing organization.

The act takes effect upon publication in the statute book.

The Division of the Budget estimates that there would be no fiscal effect to the state budget.



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON COMMERCE AND LABOR
HB 2847**

February 21, 2008

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am Associate Government Affairs Director for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

AGC of Kansas supports House Bill 2847 with amended language and respectfully asks that you report it favorably for passage.

HB 2847, as amended, would update current law to match industry-recognized testing agencies ICC (International Code Council), IAPMO (International Association of Plumbing and Mechanical Officials) and Thomson Prometric (formerly Block and Associates), for mechanical contractors, electrical contractors and plumbing contractors.

Today, K.S.A. 12-1508, 12-1525 and 12-1541 acknowledge Block and Associates (now called Thomson Prometric) as the recognized testing organization for these trades. With the name change, AGC feels it is necessary to update these statutes.

In its original form, AGC is concerned that the language in section 1, line 21, section 2, line 31 and section 3, line 43 that reads "any nationally recognized testing organization" is ambiguous and should be changed to include the testing agencies listed above.

The AGC of Kansas **respectfully requests that you recommend HB 2847 with the amended language for passage.** Thank you for your consideration.

House Commerce & Labor
Date: 2-21-08
Attachment # 8

HOUSE BILL No. 2847

By Committee on Commerce and Labor

2-12

Representative Grange
Balloon Amendments.2
February 21, 2008

H-Commerce & Labor
Committee
2-21-08
Attachment 9

9 AN ACT concerning examination for licenses; heating, ventilation and
10 air conditioning, plumbing and electrical contractors and electricians;
11 amending K.S.A. 12-1508, 12-1525 and 12-1541 and repealing the ex-
12 isting sections.
13

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

15 Section 1. K.S.A. 12-1508 is hereby amended to read as follows: 12-
16 1508. Standard examinations for the determination of competency of
17 plumbing contractors and master and journeyman plumbers, ~~based upon~~
18 ~~codes and standards effective on July 1, 1992, prepared and published~~
19 ~~and available upon such date from Block and Associates, Florida Farm~~
20 ~~Bureau Building, 5700 S.W. 34th St., #1303, Gainesville, Florida 32608~~
21 ~~any nationally recognized testing organization,~~ are hereby designated as
22 the standard examinations for determining the qualification of persons
23 seeking licensure as plumbing contractors and master and journeyman
24 plumbers for the purposes of this act.

as promulgated or administered, or both, by the international code council, the international association of plumbing and mechanical officials or Prometric, a current subsidiary of educational testing services

25 Sec. 2. K.S.A. 12-1525 is hereby amended to read as follows: 12-
26 1525. Standard examinations for the determination of competency of
27 electrical contractors, master and journeyman electricians and residential
28 electricians, ~~based upon codes and standards effective on July 1, 1993,~~
29 ~~prepared and published and available upon such date from Block and~~
30 ~~Associates, Florida Farm Bureau Building, 5700 S.W. 34th St. #1303,~~
31 ~~Gainesville, Florida 32608 any nationally recognized testing organization,~~
32 are hereby designated as the standard examinations for determining the
33 qualification of persons seeking licensure as electrical contractors, master
34 and journeyman electricians and residential electricians for the purposes
35 of this act.

36 Sec. 3. K.S.A. 12-1541 is hereby amended to read as follows: 12-
37 1541. Standard examinations for the determination of competency of me-
38 chanical heating, ventilation and air conditioning contractors and master
39 and journeyman heating, ventilation and air conditioning mechanics,
40 ~~based upon codes and standards effective on July 1, 1992, prepared and~~
41 ~~published and available upon such date from Block and Associates, Flor-~~
42 ~~ida Farm Bureau Building, 5700 S.W. 34th St., #1303, Gainesville, Florida~~
43 ~~32608 any nationally recognized testing organization,~~ are hereby desig-

House Comm
Date: 2-21-08
Attachment # 9

1 nated as the standard examinations for determining the qualification of
2 persons seeking licensure as mechanical heating, ventilation and air con-
3 ditioning contractors and master and journeyman heating, ventilation and
4 air conditioning mechanics, for the purposes of this act.

5 Sec. 4. K.S.A. 12-1508, 12-1525 and 12-1541 are hereby repealed.

6 Sec. 5. This act shall take effect and be in force from and after its
7 publication in the statute book.

9-2

9-2



President
Mark Love

Executive Secretary
Treasurer
Andy Sanchez

Executive Vice
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Earl Ransom
Steve Rooney
Rory Schaffer
Deb Shepard
Mark Shughart
Richard Taylor
Dan Woodard*

Testimony in Opposition to HB 2847 before the House Commerce and Labor Committee February 21, 2008

By Andy Sanchez, Executive Secretary-Treasurer
Kansas AFL-CIO

Chairman Brunk, and members of the House Commerce and Labor Committee, thank you for the opportunity to appear before you today and share our thoughts on HB 2847. The Kansas AFL-CIO includes in our affiliates nearly all of the different building trades that amounts to about half of our membership.

HB 2847 appears to make an attempt to clarify testing administration of trade licensure. While I believe the intent is clear with no harm meant, the base bill may indeed present some problems. By not naming the company charged with test administration, HB 2847 if passed, could enable entities to broadly interpret the law as written. That is to say, "any nationally recognized testing organization" may encourage some self-proclaimed educators to deem themselves responsible educators for any number of reasons. For example, they could do so because they could have a national curriculum, be nationally affiliated to just about any organization, or they could simply establish an online education training school. The possibilities are endless. In our view, this creates a potential for compromising educational and testing standards.

Perhaps a "once and for all" fix will not serve our purpose. While changing the approved method to specify testers may be cumbersome, it could better serve our purpose and save a host of other problems in the future. We are eager to continue working on a solution that might work, but the original language of HB 2847 doesn't seem to be the proper fix.

Thank you again for this opportunity to share our views on this important issue.



House Commerce & Labor

Date: 2-21-08

Attachment # 10

Testimony on HB 2847
House Committee on Commerce and Labor
By Greg DeBacker
February 21, 2008

Licensing and Continuing Education requirements restrain free trade as they now stand. All the major players promoting licensing and CEU's profit from the new requirements. It creates jobs for many people who do not have the mechanical aptitude to actually perform the work. I do not argue there is some benefit, however, manufacturers and liability insurance companies do far more to protect property and keep people safe. The fact is that adopted codes often have to be abandoned to install HVAC equipment in order to comply with manufacturers installation requirements. Manufacturers frequently trump code, with the exception of when it is disallowed due to a local code official who dislikes the manufacturer. There can be a lot of politics involved in construction, which is unrelated to the safety of people and the protection of property. Lowes, Home Depot and Hardware stores should sell only to licensed contractors. Do you think that will happen?

If I'm in error, please correct me, but I brought this to the committees attention last year during hearings on House Bill 2251. I mentioned that Kansas cities were not complying with current law due to the fact that Block and Associates, as mentioned in KSA 12-1508, 12-1525 and 12-1541, was no longer in business. This means all persons who have received their licenses in the last 4-6 years did not acquire their license according to current Kansas law.

1) Lines 18, 28 and 40. dates should be deleted. Cities adopt codes at different time frames. Example, New York State adopted the 2003 code, in 2006. The City of Topeka was struggling to adopt 2003 codes as recently as last year, and are working on modifications to the codes.

2) Lines 21, 31 and 43. Delete Nationally recognized. There is no National recognized organization. Every City and sometimes state can adopt codes from any number of rule making bodies. These same cities and states frequently modify or amend the codes to suit their needs. Same with Testing Organizations.

Teachers can teach any where in the state of Kansas. Doctors and Lawyers can practice anywhere in the state of Kansas. Why is it that DeBacker's Inc. in business since 1949, and a Kansas Corporation registered with the Secretary of State since 1966, with 4th generation employees, cannot openly do business in all of Kansas's cities? We previously could. In the 1960's -- 1980's we installed equipment in cities from Hays to Kansas City. Since licensing and CEU's have come about our trade area has been restricted to Topeka and Lawrence and areas outside of Manhattan and Junction City and the counties surrounding Topeka.

3) Amendment... Companies or Persons in the trade of Plumbing, Mechanical, Electrical, and Contracting prior to 2006 and have proof of liability insurance shall be grandfathered by all Kansas municipalities, and CEU's will be reciprocal.

House Commerce & Labor
Date: 2-21-08
Attachment # 11