

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2582**

As Agreed to March 30, 2006

Brief*

HB 2582 would address homeowners' association restrictive covenants, budgets, and board meetings.

With respect to restrictive covenants, the bill would:

- Prohibit a restrictive covenant from being in violation of Kansas laws that forbid discrimination based on race, religion, color, sex, disability, familial status, national origin or ancestry, which is in connection with sale or rental of real property or real estate loans.
- These changes must be made within 60 days of the act's effective date and without seeking approval of association members involved;
- The amended document must be recorded, within 10 days of the amendment's adoption, in the same manner as the original document but with no fee for recording the amended version; and
- The bill also would provide for injunctive relief when a restrictive covenant continues in violation of this law 30 days after a city or county has given written notice to the association that authored the restrictive covenant.

With respect to homeowners' association budgets and board meetings, the bill would:

- Require all homeowners' association board meetings to be open to all homeowners; and

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- Require homeowners' association boards to adopt an annual budget and make a copy available within 30 days to any homeowner who requests one.

Conference Committee Action

The House conferees agreed to the Senate amendments to the bill, with the following exceptions, additions and revisions:

- Reinstated the requirements regarding board meetings and budgets that were added by the House Committee of the Whole, except that:
 - The budget would not have to be mailed; and
 - The budget would only have to be made available to a homeowner who requests a copy.

Background

Two bills addressing this subject were heard: HB 2544 and HB 2582. The Committee decided to move forward with HB 2582.

Representative Bill Feuerborn, the sponsor of HB 2544, introduced Ottawa Mayor Richard Jackson. Mayor Jackson testified that more than 1,200 restrictive covenants containing language banning blacks, Jews and other ethnic groups have existed in the Kansas City area, as well as others in other areas of Kansas. Many of these covenants were not removed after a 1948 U.S. Supreme Court ruling declared them unenforceable, nor after they were banned by the Fair Housing Act of 1968. After national efforts to eliminate similar covenants—in the 1980s by the U.S. Department of Housing and Urban Development and in 1999 by the National Association of Real Estate Brokers—the State of Missouri enacted legislation in 2005 requiring homeowner associations to remove restrictive covenants. Mayor Jackson testified these covenants still exist in areas of Johnson County, Wichita, Emporia, Coffeyville and Topeka.

Representative Terrie Huntington, the sponsor of HB 2582, traced the history of *Shelley v. Kraemer*, the 1948 Supreme Court decision that began the removal of various elements of discrimination related to property ownership. She indicated that 20 years later, most such restrictive covenants had been changed. However, in at least one case, 100 percent of the residents in an association had to vote in order

to remove the restrictive covenant. The 2005 Missouri legislation, she testified, made it possible for association officers to delete discriminatory language without requirements similar to the 100 percent vote by residents. HB 2582 provides for similar legislation, she said.

The Kansas Human Rights Commission (KHRC) provided testimony in favor of both bills. KHRC's testimony echoed Representative Huntington's comments that provisions established by several homeowners' associations make it difficult for the association membership to remove the restrictions. John Sheets, Executive Director of the Homes Associations of the Country Club District, testified in favor of HB 2582, noting the legislation would provide a simplified procedure for one-time amendment of deed restrictions to eliminate the discriminatory restrictions. The Westwood Hills City Council also provided written testimony in favor of HB 2582.

According to the fiscal note for HB 2582, the estimated state fiscal effect is \$710 for FY 2006 and \$1,000 for FY 2007. All funds are estimated to come from the State General Fund. The additional expenditures are needed by KHRC for answering inquiries, printing books and posters, purchasing miscellaneous office supplies, and traveling for the filing of injunctions.

The House Committee of the Whole amended the bill to:

- Require restrictive covenants be changed within 60 days of the act's effective date;
- Require recording of the amended document;
- Require homeowner's association board meetings be open, and budgets be adopted and sent to members; and
- Make a technical change.

The Senate Committee deleted a provision which would require all homeowners' association board meetings to be open to all homeowners, adopt an annual budget, and mail copies of the budget to all homeowner members within 30 days of its adoption.