

SESSION OF 2008

REVISED
**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2772**

As Agreed to April 2, 2008

Brief*

HB 2772 would enact new language regarding radon notification which would require each contract for sale of residential real property to contain language notifying the buyer that the property may contain radon gas, the cancer risks of exposure to radon, and the Kansas Department of Health and Environment (KDHE) recommendations to test for such gas. Another provision would require KDHE to provide their website at www.kansasradonprogram.org.

The bill also would contain provisions regarding real estate appraisers as follows.

The bill would prohibit persons who are not state certified or licensed appraisers from:

- Engaging in any written appraisal in connection with a real estate-related financial transaction; and
- Advertising or otherwise representing in any manner that such person is a state certified or licensed appraiser.

The Real Estate Appraisal Board could recognize, on a temporary basis, the certification or license of an appraiser from another state if the property to be appraised is part of a real estate-related financial transaction.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The bill would add the definitions of “broker price opinion” and “comparative market analysis” to mean an analysis, opinion or conclusion prepared by an individual licensed as a real estate broker or salesperson relating to the price of specified interests in or aspects of identified real estate property that are provided to a potential customer, client or third party in the ordinary course of business.

The definition of a real estate-related financial transaction would be amended to include a federally related transaction.

An appraiser definition would be added to the law to mean a person who develops and communicates real estate appraisals for real estate-related financial transactions and holds a current valid certification or license.

The Board also could do the following:

- Upon a finding that a person is not a state certified or licensed appraiser, as required by the bill, impose the civil fine allowed in current law of \$1,000; and
- Upon the determination that a person has violated the provisions of the bill regarding certification and licensure of an appraiser, issue a cease and desist order against such a person.

The bill further would provide that employees of financial institutions who conduct appraisals within the meaning of the state certified and licensed Real Property Appraisers Act or who conduct an evaluation in accordance with state and federal banking regulations are exempt from the requirement that such persons be state certified or licensed when the loan that is the subject of such appraisal is not intended to be sold in the secondary market. However, if the financial institution disposes of the loan in the secondary market, the financial institution would be required to obtain an appraisal by a state certified and licensed appraiser unless the employee who conducted the prior appraisal is a state certified and licensed appraiser.

The bill would exempt qualified attorneys, employees of the Kansas Department of Transportation, individuals licensed as insurance agents while acting within the scope of the Kansas Insurance Code, and certified public accountants from the prohibition regarding a written appraisal.

Conference Committee Action

The Conference Committee agreed to do the following:

- Retain radon notification provisions;
- Retain provisions regarding appraisers; and
- Exempt Department of Insurance agents and Department of Transportation employees;

Background

Originally, HB 2772 dealt with real estate appraisers regarding licensure, penalties, and exceptions.

The Senate Committee of the Whole amended the provisions of Sub. for SB 577 into HB 2772. The provisions of Sub. for SB 577 deal with the Radon Awareness Act and the Radon Certification Law.

Radon Awareness and Technician Certification

Proponents of the original radon bill included Senator Barnett; the Kansas Department of Health and Environment; the American Cancer Society; McGrew Real Estate; Mid America Radon Testing; and Radon Mitigations, Inc. Written testimony in support of the original bill was submitted by a concerned citizen, and AAIR Professionals, Inc. Opponents included the Kansas Association of Realtors; Kansas Building Industry Association; and Kansas Manufactured Housing Association. Written testimony in opposition to the original bill was submitted by the Home Builders Association of Greater

Kansas City; and the Kansas Association of Real Estate Inspectors.

Real Estate Appraisers

Bruce Fitzsimons, Chief Appraiser, First National Bank of Olathe and Richard Livingston, Livingston Appraisals, Inc., expressed support for the bill. Whitney Damron, Kansas Bar Association expressed support for the intention of the bill but offered an amendment. Kathy Olsen, Kansas Bankers Association; Tony Scott, Executive Director, Society of Certified Public Accountants; and Vicki Johnson, Kansas Department of Transportation, addressed the Committee as neutral parties.

Larry Magill, Kansas Association of Insurance Agents testified in opposition to the bill.

Written testimony was submitted by Sally Prichett, Kansas Real Estate Appraisal Board, and Jack Shelton, Shelton and Associates.

Fiscal Notes

The fiscal note on the original radon bill indicates that the bill would increase expenditures by \$60,150 from the State General Fund for KDHE in FY 2009. The fiscal note also estimated salaries and wages for staff and operating expenses by KDHE would be \$80,550.

The fiscal note on the original real estate appraisers bill indicates the bill could cause a net reduction in fee funds. Other costs associated with an increased number of appraisers would be handled through existing resources.

radon awareness; real estate appraisers