

Approved: 3/1/07  
Date

## MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:04 A.M. on February 7, 2007 in Room 231-N of the Capitol.

All members were present except:

Brenda Landwehr- excused  
Broderick Henderson- excused  
Delia Garcia- excused  
Mike Kiegerl- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department  
Dustin Slinkard, Office of Revisor of Statutes  
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Luke Bell, KAR, Director of Governmental Relations  
Carol B. Mangan, 2007 President, Kansas Association of Realtors  
John Green, President, Coldwell Banker Griffith and Blair American Home  
Cal Lantis, 2005 President, Kansas Association of Realtors  
Sherry Diel, Executive Director, Kansas Real Estate Commission

Others attending:

See attached list.

The Chairman reminded the committee fo the schedule for the week of 2/12/07.

The Chairman opened the hearing on **HB 2249 - Technical changes to the use of real estate sales validation questionnaires.**

Luke Bell, KAR, director of Governmental Relations testified as a proponent of **HB 2249 (Attachment 1).**

Representative Huntington asked about the information provided on the questionnaire. All the questions were worked out at the time that the questionnaire was put in the statute.

Representative Pauls asked if the term "fiduciary" was not used in any other statutes. It is not used in Real Estate statutes, they are statutory duties. The information allows them give their clients a more accurate picture of the value of a property. We would consider it a friendly amendment if you want to add "to customers and clients" after "on the market value of property".

The Chairman asked for any other proponents or opponents to the bill. There being none the Chairman closed the hearing on **HB 2249.**

The Chairman opened the hearing on **HB 2295 - Effect of criminal convictions on licensure of real estate brokers and salespersons.**

Luke Bell, KAR, Director of Governmental Relations testified as a proponent of **HB 2295 (Attachment 2).**

Representative Tietze asked if this law would affect the 31 convicted felons who already have licenses. Luke answered, "No, they are grand fathered in under current law.

Representative Pauls asked if the law would eliminate them upon their renewal of liscense. Luke Bell indicated that it was not their intent to retroactively apply the statute and they would be willing to add language to clarify that. Representative Pauls said that they were removing discretion from the commission. Luke Bell said that was true for the periods of 10 and 5 years plus the permanent prohibition on violent sexual offenders.

Representative Grant asked if there was in incident that triggered the changes. Luke answered that

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there was no specific incident that triggered it. It was a growing concern. Representative Grant further asked what kind of felonies were involved with the 31 who were issued licenses. Luke said that it involved a lot of drug convictions, robbery, burglary, prostitution, forgery and fraud.

Representative Huntington asked if they would exempt teenagers on the felony list. Luke answered that it was difficult to second guess the legislature on creating the offender registry and when the legislature made the determination that placed that crime on the registry it is difficult to draw a line to exclude one crime and not include all crimes.

Representative Huntington further asked if they would consider using DNA evidence. Luke replied that what the FBI needs is fingerprint information to conduct a national background check.

Representative Roth said that bans on employment would increase the recidivism rate. Have you considered that? When considering drug offenses, we do not consider drug offenses as a serious crime, however we feel that if you are coming off a recent drug conviction it is wise to have a waiting period because drug offenders have to commit other crimes to support their habit. We feel that they need to wait a certain amount of time to prove that they are qualified for a license. Other states require a 3 to 7 year ban.

Representative Tietze asked how long does it take to get a license. Typically it is done fairly quickly. How much time is added by this requirement. The KBI says that it will take 2 to 4 weeks to conduct a background check. They encourage us to have the background checks done early in the application process.

Representative Ruiz asked if the 31 felons granted licenses would be given background checks when they do their renewal. Luke said that since we have 17,000 licenses renewed on a bi-annual basis it would be very difficult to do background checks on renewals. That is why it is restricted to original applications only.

The Chairman asked if all applicants are required to submit fingerprints or if it were only those who declared that they were felons. Luke replied that they want all applicants to submit fingerprints.

Representative Pauls asked if the language on page 1 line 36-37 required the opening of all juvenile records that are sealed to the public. Luke replied that it was standard language that was provided to them by the KBI and it is the language that is supplied to all agencies requiring background checks. We did not originally want to include all this language. The KBI asked us to include this language. If it is the will of the committee I would be OK with striking all this language you have concerns with.

The Chairman asked if there were any other questions and there were none.

The Chairman introduced the next conferee Carol Mangan, 2007 President, Kansas Association of Realtors who testified in support of **HB 2295** (Attachment 3). The committee had no questions for Carol Mangan.

John Green, President, Caldwell Banker Griffith and Blair American Home testified as a proponent for **HB 2295** (Attachment 4).

The Chairman asked how he felt about the permanent ban on some felons. He indicated that he approves of it and said that the public should not have to take a chance when buying or selling real estate.

Representative Metsker asked if the application printed on the back of his testimony was the one that all agents use. He answered that it was only page 1 of 3 pages of the questionnaire. He said that if no-one checks on the answer to question 5 then why would a felon answer the question truthfully.

Cal Lantis, 2005 President, KAR testified in support of **HB 2295** (Attachment 5). He gave three

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points. 1. Public Safety, 2. Personal Experience and 3. Recidivism.

The Chairman asked about his background. He said that he had been a deputy sheriff from 1981 to 1984 and served 10 years as a reserve deputy. The Chairman further asked how he felt about the KBI language in the bill that had been mentioned earlier. He said that KBI Directors tend to error on the side of caution and that he was not concerned about expunged records.

There were no more questions for Cal Lantis so the Chairman turned to the opponents of **HB 2295**.

Sherry Diel, Executive Director, Kansas Real Estate Commission appeared as an opponent of **HB 2295 (Attachment 6)**. They feel that the bill goes too far. They do not oppose background checks.

Chairman Brunk asked if the problem with the bill was the length of time or the ban itself or the commissions discretion. The bill does give discretion after the time limit. Sherry Diel answered that discretion was the factor they were concerned with.

Chairman Brunk asked if there was a checklist they used to screen prospective agents. There is a statutory list that they use. It considers the nature of the crime, how much time has passed and if they have shown rehabilitation. It is done on a case by case basis and is done similar to a parole board hearing.

Representative Pauls asked if they were concerned about a lifetime ban for someone who committed a crime as a 13 or 14 year old. They said that was an extreme example of a lifetime ban.

The Chairman asked for further questions from the committee. Since there were none the hearing was closed on **HB 2295**.