

Approved: 3/1/07
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:10 A.M. on February 20, 2007 in Room 231-N of the Capitol.

All members were present except:
Kasha Kelley- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research Department
Duston Slinkard, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:
Jeff Barnes, Kansas Association of Real Estate Inspectors
Callie Hartle, Kansas Trial Lawyers Association
Luke Bell, Kansas Association of Realtors

Others attending:
See attached list.

The Chairman opened the hearing on **HB 2379 - Employee misconduct based upon absence or failure to notify of intent to be absent.**

Duston gave a brief description of the bill. The purpose of the bill was to make a technical clarification. There was some confusion on the part of a court in Wichita about how to apply the statutes. The changes were to strike the language about failure to notify on page 4, line 19-22 and move it to page 6, lines 18-21 to clarify that there are two distinct kinds of misconduct connected with absence.

Representative Goico said that many employers have a grace period of several days before they terminate the employee. Is there a see a grace period in this bill? Duston said that there was no grace period in the bill but that this law does not change the law on failure to notify or on improper absences. It simply clarifies that there are two distinct types of misconduct. The point is that there is no net change to the law on either point. It is simply a technical change.

Representative Ruff asked if other departments had shown interest in the bill.

The Chairman explained the case that caused the confusion in the Wichita court and introduced the written testimony of the Honorable Jeff Goering, District Judge, 18th Judicial District (Attachment 1). Since this is a technical question the judge is the only one who has shown interest in it.

Representative Pauls said that moving the language from page 4 to page 6 does not clarify anything and she was not sure it was only a technical change. Duston said that the move was to place them in parallel so that they could more easily be distinguished as two separate offences. Representative Pauls asked for a copy of the judges reasoning.

There being no other conferees or questions the hearing on **HB 2379** was postponed to a later date.

The Chairman called the committees attention to **HB 2315 Home Inspectors competency and financial responsibility.** He introduced three balloons. One from the Kansas Association of Realtors dated February 15, 2007 (Attachment 2), the second proposed by Representative Grange dated February 19, 2007 (Attachment 3) and the third proposed by the Kansas Trial Lawyers Association (Attachment 4). We will start with the amendment by the Kansas Association of Realtors and deal with them one by one.

Representative Gordon said that the bill was so big and complicated that the committee should discuss doing nothing with it now.

Representative Grant agreed with Representative Gordon. He did not see a problem that called for this bill nor had he heard an outcry for this bill.

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:10 A.M. on February 20, 2007 in Room 231-N of the Capitol.

Representative Sharp said that this might not be a problem today but that we need to protect some of the areas that are experiencing extraordinary growth now.

Representative Kiegerl agreed with Representative Sharp and made a motion to adopt the amendment by the Kansas Association of Realtors, seconded by Representative Sharp.

Representative Landwehr asked if we were creating a new board and if so what is the fiscal? The Chairman explained that the board would be self supporting and there is no fiscal.

Representative Huntington said that this was the same balloon at the Manufactured Housing industry offered several years ago.

The question was called and the amendment was passed by voice vote.

Representative Grange came to the microphone to explain his amendment. His concern was to strike lines 29 through 32 on page 6 in order to allow a tradesman to offer service. Then on page 7 lines 31 through 34 be stricken because there are more than three nationally recognized societies and those listed are subject to change. He moved that his amendment be approved.

Representative Sharp asked how do we define a nationally recognized society.

The Chairman suggested the wording "as recognized by the Board" be added. Representative Grange considered that as a friendly addition.

Representative Ruff seconded the motion.

Representative Pauls asked for the reason to have a \$250,000 liability insurance policy if you are limited to \$1000.00 on an inspection.

The chairman called for the vote on the amendment and it passed by voice vote.

Representative Ruff asked to offer the amendment from the Kansas Trial Lawyers. They want to strike out the \$1,000 liability limit seen on page 8 lines 14-15 and 25-25 and change page 8 line 18 from 12 months to two years. Representative Ruff made a motion to accept these changes, seconded by Representative Ruiz.

Representative Goico said that the amendment by making the liability unlimited might make insurance rates too high. It should be limited to a reasonable amount or people would be eliminated from being home inspectors.

Representative Grange said that the inspections would go for \$500.00 or \$600.00 in his area and he felt that making the time period two years was too long, it was becoming a warranty.

Representative Humerickhouse said that he also was concerned with the two years change.

Representative Ruff made a motion to modify the amendment to raise the liability cap to \$10,000 and a 12 month time limit.

Representative Grant asked how much would a heating and air conditioning system cost. Representative Grange said that \$10,000 would more that cover it but that with the purchase of a home the buyers purchase homeowners insurance that covers the cost of the replacement of the heating system.

Representative Kiegerl said that he agrees with the Kansas Trial Lawyers amendment and that we should leave the amount of liability open ended and revert the time period to 12 months.

Representative Huntington agrees with Representative Kiegerl and said that we should leave the liability open ended.

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:10 A.M. on February 20, 2007 in Room 231-N of the Capitol.

Representative Ruiz asked a question of Jeff Barnes about the insurance issue. He said that the Kansas Supreme Court said that if you do not have a home inspection you can not expect the seller to tell you the truth. It is buyer beware. Without an inspection you are buying as is.

Representative Garcia asked a question of Callie Hartle about the two year term of liability. Callie said that if you limit the liability then the homeowner would have to pay rather than the home inspector. The two year limitation is a standard statute limitations of the state. Breach on contract is five years.

The Chairman said that everyone is regulated except the home inspectors. The purpose of the bill is to get this board established so they can set some rules and regulations for standardization in the home inspection industry.

The question was called and the amendment passed on voice vote. The amendment takes us to \$10,000 and 12 months. We are back on the base bill.

Representative Ruff asked how many inspectors there were. Jeff Barnes answered there were approximately 300. The next question was the cost of the bill. The initial board was Governor setup and then the board was on it's own. A volunteer board. Some fees set up to support the board. Duston said it was a five member board and the fees were not determined.

Representative Pauls asked if we allow boards to set their own salaries.

Luke Bell, Kansas Association of Realtors, answered the questions about staff and expenses. The board was modeled after the Board of Abstract Examiners, the smallest state registration board and said that the board would spend less that \$10,000 per year. When they do have resources to hire staff the salaries must be approved by the State Finance counsel.

Representative Gordon asked who requested the bill. Luke Bell said that Representative Tom Sloan and after it was introduced we worked with the Kansas Association of Real Estate Inspectors.

Representative Grange said that he felt that the bill was not real clear and that there were a lot on unanswered issues. He made a motion to table the bill, seconded by Representative Roth.

The Chairman adjourned the meeting and indicated that we would take up action on the motion at our next meeting. The meeting adjourned at 10:30 A.M.