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To:	House Appropriations Committee
From:	Sherry C. Diel, Executive Director
Date:	March 7, 2011
Subject:	HB 2368—Proponent of abolishing 20% transfer from fee fund receipts to SGF

Chairman Rhoades and members of the House Appropriations Committee, thank you for the opportunity to share the Commission's comments regarding the benefit passage of HB 2368 will have on the Kansas Real Estate Commission's fiscal ability to properly regulate the real estate industry. Due to factors outside the Commission's control, the Commission's fee fund balance will not be sufficient to sustain anticipated revenues commencing in FY 2013 without substantially increasing revenues or reducing expenditures needed for regulatory purposes.

Quick Background on What Happened to the Commission's Cash Balance

The difficult economy has taken a devastating toll on the Commission's budget, but there are other factors involved to explain why the Commission's fee fund balance has been depleted so quickly. The Commission has been hit by the "perfect storm" caused by the following: (1) since FY 2005, over $700,000 has been swept from the Commission's fee fund and transferred to the State General Fund (SGF); (2) licensee counts have decreased by approximately 3,000 since FY 2007; and (3) the number of requests for hearings and severity of the cases have more than doubled since the housing market began to decline resulting in increased expenditures and an increase in the backlog of cases that require disciplinary orders to be drafted and a backlog of hearings to be held.

In FY 2005, $508,438 was swept from the Commission's fee fund. In FY 2009, another $195,671 of Kansas Savings Incentive Plan (KSIP) monies that the Commission had saved for updating its licensure system was swept from the fee fund and transferred to the SGF when the KSIP program was terminated. Ironically, the Division of Budget had also recommended that another $550,000 be swept from a combination of the Commission's recovery fund and fee fund in FY 2009, but fortunately that measure was defeated late in the Session.

The Commission Pay 20% for Indirect Costs and is Direct Billed

In addition to the fee fund sweeps, the Commission transfers 20% of fees received from licensees up to a maximum of $200,000 per year for "indirect costs" for accounting, legal and other centralized services. However, the Commission is also direct billed for most of those services by the Department of Administration.

For the past several years, the Commission has been required to transfer the entire statutory cap of $200,000 to meet the 20% transfer requirement. From FY 2006 through FY 2011, the Commission will have transferred $1.2 million of receipts from licensee fees to the SGF. Fee fund sweeps and direct bills for general services are added to the $200,000 per year transferred to SGF.

In FY 2011, the Commission anticipates that direct bills received from the Department of Administration will fall in the $52,000-$60,000 range. Examples of direct bills from the Department of Administration include:

$14,300 monumental building charge for upkeep of Capital, Judicial Center and Governor Mansion

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$5,500 postage equipment assessment
$150 Dept. of Facilities Mgmt. assessment for lease negotiation services
$50 per hour for services provided by DISC computer support staff
$5500 FMS assessment (charge for SMART accounting system)

Other items Department of Administration direct bills for:

Voice Switching, Long Distance, and Directory
Connectivity/router for information technology equipment
Monthly assessment for each email account
Monthly assessment for every warrant issued by the Commission to pay bills or refunds
Surety bond
Car insurance
Postage for all U.S. Mail processed by Central Mail

In FY 2009 alone, the direct bills received from the Department of Administration exceeded $50,000. A total of approximately $450,000 was transferred from the Commission's fee fund to the State General Fund in FY 2009 between the 20% receipts transfer of $200,000, the fee fund sweep of almost $196,000 and direct bills exceeding $50,000.

For the period FY 2006 through FY 2011, the Commission will have been required to transfer a total of $1.9 million to the SGF due to the 20% receipt transfer requirement and fee fund sweeps plus an additional $40,000-$60,000 per year is paid to SGF in response to direct billings from the Department of Administration.

How Will Passage of HB 2368 Benefit the Commission

Because of the past fee fund sweeps and significant drop in licensee counts, the Commission must increase revenue or it will have no choice but to cut expenditures resulting in less regulation of the real estate industry and less protection of the public. **The Commission has requested the introduction of SB 121 to increase the statutory cap for salespersons' and brokers' original and renewal license fees.** However, a fee increase would not be viewed as favorably by the Commission or the licensees as the option to abolish the requirement to transfer 20% of fee receipts to SGF.

If the 20% receipts transfer requirement was abolished, the Commission could then retain $200,000 of licensee fees received in FY 2012 and $200,000 of licensee fees received in FY 2013. The Commission could then start building back its depleted fee fund balance without the necessity of a fee increase. The influx of revenue would continue without any additional charge to the licensees. The Commission will still be direct billed $52,000-$60,000 for the services the Department of Administration currently direct bills for. If the Department of Administration decides to direct bill for additional services such as general legal, general personnel, budget and purchasing, the Commission would still be better off than losing $200,000 in receipts every year.

The Commission believes that HB 2368 is a "win-win" for the Commission, the real estate licensees, and the public who should expect that the Commission has been provided the appropriate budgetary and staffing resources to properly regulate the industry.

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