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To: House Taxation Committee

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Subject: **HB 2042** – Opposing Proposal to Place the Burden of Proof in Property Tax Appeals for Certain Commercial and Industrial Properties on Property Owners Rather than County Appraisers and Eliminate the Requirement to Mail All Property Tax Valuation Notices

Chairman Carlson and members and members of the House Taxation Committee, thank you for the opportunity to provide testimony today on behalf of the Kansas Association of REALTORS® in opposition to the provisions of **HB 2042**, which would place the burden of proof in property tax appeals on commercial and industrial properties on property owners rather than county appraisers and eliminate the requirement to mail all property tax valuation notices to property owners. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR is the state's largest professional trade association, representing nearly 8,000 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 homeowners for over 90 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

While we will concede that Kansas does indeed have a growing property tax problem, the provisions of **HB 2042** will unfortunately do absolutely nothing to address this problem and will instead only seek to further restrain the ability of property owners to freely exercise their rights in the property tax appeals process. In fact, Kansas REALTORS® strongly believe that now is the time for the Kansas Legislature to explore other ways in which the property tax appeals process can become more user-friendly to aggrieved property owners, including the following suggestions:

- Providing predictability and stability to property owners who have successfully appealed their property tax valuation by freezing their property tax valuation for a period of three years and narrowly defining the terms "substantial and compelling reasons" to rein in abuses in the appeals process by county appraisers;
- Requiring county appraisers to provide property owners with a complete list of all comparable properties used in the valuation of the property at least 48 hours in advance of any informal meetings between the county appraiser and the property owner;
- Requiring county appraisers to accept an appraisal of the valuation of the property prepared by an individual licensed as a real estate appraiser during the appeals process; and
- Awarding reasonable attorneys' fees and court costs to a prevailing property owner when the property owner succeeds in reducing the valuation of the property in the property tax appeals process and the county appraiser has failed to accept an appraisal of the valuation of the property prepared by an individual licensed as a real estate appraiser.

Over the last decade, the property tax burden on Kansas home owners and small businesses has increased exponentially as total property taxes collected have increased from roughly \$1.97 billion in 1997 to over \$3.9 billion in 2011, which is a 99.3% increase in just 14 years. This dramatic increase in the property tax burden is nearly triple the rate of inflation, ten times the rate of mill levy increases and nearly nine times greater than the state's population growth over the same time period.

Unfortunately, we believe that this dramatic growth in the property tax burden stifles the economic prosperity of many small businesses in Kansas who have seen a consistent increase in the amount of their income that is devoted to paying their property tax assessments. Furthermore, we believe the increased property tax burden also makes it more difficult for Kansas families to make ends meet and is severely burdensome for many senior citizens and low-income Kansans on fixed incomes.

According to a detailed analysis by the Tax Foundation, Kansas currently has one of the most burdensome property tax systems for businesses with a ranking of 41st in 2012. Since the Kansas Legislature has started to discuss comprehensive income tax reform to improve the economic growth climate in Kansas for small businesses and individual taxpayers, REALTORS® strongly believe that the Kansas Legislature should also take action to improve the business climate through comprehensive property tax reform.

Furthermore, in the report entitled *Location Matters: A Comparative Analysis of State Tax Costs on Business* recently released by the Tax Foundation, Kansas ranks 47th overall in terms of the most favorable tax climate on mature business operations and 48th overall for newly-established business operations. Although the report concludes that the corporate income tax burden on these businesses are either average or even slightly below average, the report states that Kansas has one of the highest (if not the highest) property tax burdens on business operations across all 14 categories of businesses.

However, enacting new restrictions on the rights of commercial and industrial property owners to exercise their ability to challenge the property tax valuation of their properties in the property tax appeals process is exactly the wrong way to overhaul and modernize the Kansas property tax system. One of the fundamental principles of the Kansas property tax appeals system has always been that the county appraiser will bear the burden of proof throughout the property tax appeals process to produce evidence that demonstrates the validity and correctness of the county appraiser's assessment of the value of the property in question.

In fact, the presumption in the statute against the county appraiser has been in place and unaltered since the original enactment of **K.S.A. 74-2433f** in 1998. In our opinion, this policy has served property taxpayers very well over the intervening years and now is not the time to reverse this presumption and place the burden of proof on property taxpayers instead of county appraisers.

Under the current statute, county appraisers are provided with the complete income and expense statements for the property during the property tax appeals process. In our opinion, a property taxpayer should have no obligation or requirement to disclose this information to the county appraiser prior to the informal hearing.

Moreover, the language found in Section 3(a) on page four of **HB 2042** would eliminate the requirement that the county appraiser annually notify each property taxpayer of the classification and appraised valuation of his or her property by mail. Instead, the proponents of this legislation have requested that they be allowed to provide this very important notice to property taxpayers through electronic mail.

Unfortunately, electronic mail is a very unreliable mode of communication and many legitimate pieces of electronic mail are routinely flagged as junk or spam mail and are not actually delivered to the user's inbox. Since the mailing of the notice of classification and valuation triggers several very important deadlines relating to the property tax appeals process for the property taxpayer, Kansas REALTORS® strongly believe that allowing county appraisers to provide this notification via electronic rather than regular mail could lead to many property taxpayers failing to review their notifications in a timely manner and preserve their rights to appeal the classification and valuation of their respective properties.

For all the foregoing reasons, we would urge the members of the House Taxation Committee to strongly oppose the provisions of **HB 2042**, which would place the burden of proof in property tax appeals on commercial and industrial properties on property owners rather than county appraisers and eliminate the requirement to mail all property tax valuation notices. Thank you for the opportunity to provide comments to the committee on this issue and I would stand for questions at the appropriate time.