

February 20, 2013

The Honorable Julia Lynn, Chairperson
Senate Committee on Commerce
Statehouse, Room 445-S
Topeka, Kansas 66612

Dear Senator Lynn:

SUBJECT: Fiscal Note for SB 115 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 115 is respectfully submitted to your committee.

SB 115 would amend the Real Estate Brokers' and Salespersons' License Act by eliminating the recommendation to test for radon at the time of a sale of residential real property and replacing it with the requirement that a radon test be performed for every single-family or multi-family residential structure of four units or less no more than one year prior to the sale. The bill outlines a few exceptions to this requirement: (1) a sheriff's sale, tax sale or sale by foreclosure, partition or by court appointed trustee; (2) a transfer by a fiduciary in the course of administration of an decedent's estate, guardianship, conservatorship or trust; (3) a transfer of single family residential real property to be converted by the buyer into a use other than residential or demolished; or (4) a sale of unimproved real property.

The seller must provide the written results of the radon test and evidence of any subsequent mitigation or treatment to the buyer or a prospective buyer prior to signing the sale contract. For new residential structures, the builder or seller would be required to provide the radon test results to the buyer or prospective buyer when the residence is shown and at any other time upon request. The furnishing of test results or evidence of mitigation could not be construed as a promise, warranty, or representation by the seller or seller's agent that the test results are accurate or that mitigation or treatment was effective. A seller or seller's agent that timely provides written results of the radon test or evidence of mitigation or treatment could not be held liable in any action based upon the presence of radon gas or radon progeny in the residence.

SB 115 would require each contract for the sale of residential real estate to contain a signature line for acknowledgment by the buyer of the receipt of the radon results. If a buyer does not receive evidence of the radon testing on or before entering into the contract of sale, the buyer would have the unconditional right, upon written notice to the seller or seller's agent to

rescind the contract at any time before the receipt of the radon tests or within five days following receipt of the radon test results. If the contract is rescinded, the buyer would be entitled to immediate return of any deposits made on account of the contract.

The Kansas Real Estate Commission indicates that SB 115 could increase its FY 2014 expenditures for disciplinary hearings and investigations since the number of complaints against licensees would likely rise. The Commission indicates that revenues to the Real Estate Fee Fund would increase if the additional disciplinary hearings result in fines assessed to licensees. However, because the Commission cannot determine how many disciplinary hearings would result from this bill, it is unable to provide an estimate for additional expenditures or revenues.

The Kansas Department of Health and Environment (KDHE) indicates that any additional work associated with the reporting of radon testing and test results, as required under SB 115, could be absorbed within existing resources. KDHE anticipates that some new business may seek entry to the market for radon testing and mitigation and would need to be certified. KDHE is unable to provide an estimate for the additional revenue that certifying these new businesses would provide since the number of businesses that would seek certification is unknown.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Ralph Pimentel, Home Inspectors
Sherry Diel, Real Estate Commission
Cheryl Magathan, Real Estate Appraisal Board
Aaron Dunkel, KDHE