

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:17 A.M. on February 19, 2008 in Room 784 of the DSOB.

All members were present except:

Brenda Landwehr- excused

Kasha Kelley- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department

Dennis Hodgins, Kansas Legislative Research Department

Jill Wolters, Office of Revisor of Statutes

Renaë Jefferies, Office of Revisor of Statutes

Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Bruce Fitzsimons, VP of Consumer and Mortgage Lending and Chief Appraiser of First National Bank of Olathe

Richard Livingston, Livingston Appraisals, Inc.

Sally Pritchett, Executive Director, Kansas Real Estate Appraisal Board

Whitney Damron, Kansas Bar Association

Kathleen Olson, Kansas Bankers Association

Tony Scott, Kansas Society of Certified Public Accountants

Sherry Diel, Executive Director, Real Estate Commission

Luke Bell, Kansas Association of Realtors

Others attending: See attached list.

The Chairman asked for questions or comments on the minutes for January 17, 24, 30 and 31 and February 6 and 7. Representative Tietze made a motion that they be approved. Representative Ruiz seconded the motion and it was approved by voice vote.

The Chairman opened the hearing on **HB 2772 - Real estate appraisers, full licensure.**

Bruce Fitzsimons appeared as a proponent of HB 2772. He pointed out that the appraiser is a vital independent service provider in mortgage transactions. They are a crucial safeguard to lenders and consumers. Unfortunately, mortgage fraud exists. Therefore we believe that any legislation addressing abusive mortgage lending practices must include reforms for appraiser licensing. The licensing provision of **HB 2772** will authorize and empower the KREAB to issue regulations similar to our bordering states and address the current weaknesses in appraiser regulations (**Attachment 1**).

Renaë Jefferies, Assistant Revisor gave an explanation of what HB 2772 does. (Attachment 2).

Representative Goico asked several questions. "Who issues the license and what test to they have to take?" Bruce Fitzsimons replied that the Kansas Real Estate Appraisal Board is the only board that has Federal oversight. The education and testing is established by Federal guidelines. The Board meets on a monthly basis and reviews their experience and sends it out to state approved reviewers to verify the data and then the state either grants the license or requires further training. "Who appoints people to this board?" The governor appoints them. "How many members are there?" There are seven members. Will the Appraiser Board have some language in this bill addressing the real estate contract in order to protect all parties?" Bruce referred to USPAP, the Federal Universal Standards of Professional Appraisal Practice which outlines in detail the approved practices. Representative Goico commented that these practices are not preventing the problem we presently have in the mortgage market. Bruce said that they have an investigative committee to examine any complaints received about appraisals.

Representative Kiegerl asked for a definition of artificial inflation of an appraisal. Bruce said that this could happen when you use comparable sales and make adjustments that are inflated. The adjustments can be for square footage or by going to a location that has a higher average value. "How effective will this bill be in preventing this problem?" Bruce said that right now we have no jurisdiction over individuals unless they are

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certified. This bill will give us jurisdiction by requiring them to justify their appraisals. We just want people who do appraisals to be licensed so that something can be done if they are producing fraudulent appraisals.

Representative Pauls asked if the bill would require a large number of people to be licensed. Bruce said that it would not be a large number because most are already certified. This will require those from other states to be licensed in Kansas.

Richard Livingston presented his testimony in favor of the bill. (Attachment 3). He stressed all the professions that currently require licensing. Some examples are Real estate agents, Mortgage loan officers or used car salesmen. He asked that the board be empowered to regulate this profession.

Written only testimony was provided by Sally Pritchett on behalf of the Kansas Real Estate Appraisal Board (Attachment 4). She stressed that Kansas was one of only 13 states that do not have mandatory licensing. This legislation is a proactive step taken by the Board to protect the public.

Whitney Damron, Kansas Bar Association presented his testimony with a balloon amendment as a proponent (Attachment 5). His concern was that attorneys be exempted from the provisions of the bill because they are often called upon by their clients to render valuation or appraisal-related services for a variety of reasons. They do support the intention of the sponsors of the bill.

Kathleen Olsen, Kansas Bankers Association testified in favor of the bill (Attachment 6). She thanked the Real Estate Appraisal Board for addressing their concerns and maintaining the need for an alternative to a full-blown certified appraisal in limited circumstances where an employee of a financial institution conducts an "evaluation" in accordance with state and federal banking regulations. Her testimony included the rules for state banks on "evaluations" of real estate loans below \$250,000.

Tony Scott testified as neutral on the bill (Attachment 7). He included a balloon amendment the effect of which was to except persons licensed as a certified public accountants from the provisions of the bill.

There was no one testifying in opposition to the bill. The Chairman closed the hearing on **HB 2746**.

The Chairman opened the hearing on **HB 2746 Amendments to real estate brokers' and salespersons' license act; advertising.**

Rena Jefferies, Assistant Revisor presented an explanation of the bill (Attachment 8).

Sherry Diel, Executive Director, Kansas Real Estate Commission testified as a proponent of HB 2772 (Attachment 9). She indicated that the Kansas Real Estate Commission requested this bill to clarify legislation passed in 2007 regarding licensure of real estate salespersons and brokers and to amend laws regulating real estate licensees. Definitions and additions were made to existing law regarding prohibited acts and regulating advertising conducted by licensees. Additionally, the Commission would be authorized to use funds in the real estate recovery revolving fund that exceeded \$250,000 for specified purposes that benefit licensees and consumers. No additional staffing or expenditures to implement the legislation was anticipated. **Sherry attached a proposed balloon amendment to add a subsection about forgery (Attachment 10).**

Luke Bell, Kansas Association of Realtors presented a brief testimony in support of HB 2746 (Attachment 11). KAR believes this bill is a major step forward in protecting consumers and ensuring the professional responsibility of real estate licensees. KAR does have a concern with one remaining provision in the legislation and requested that the Commission and KAR continue to discuss this issue and bring it back during the 2009 Legislative Session.

The Chairman closed the hearing on **HB 2746** and adjourned the meeting at 10:34 A.M. The next meeting is scheduled for February 20, 2008.