

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 44**

As Recommended by House Committee on
Judiciary

Brief*

House Sub. for SB 44 would amend the Commercial Real Estate Broker Lien Act to specify that a broker would have a lien on commercial real estate if the broker has a written agreement with a person to represent that person in the purchase, lease, or other conveyance to the lessee or grantee of the real estate when the broker becomes entitled to compensation pursuant to that written agreement. A lien already is allowed when the agreement is for the purchase, lease, or other conveyance to the buyer of real estate.

Additionally, in the case of a lease, sublease, or assignment of commercial property, the bill would increase from 90 to 180 days the amount of time within which a lien must be recorded after a lessee takes possession of the property.

Background

As introduced, SB 44 would have amended law related to docket fee revenue and the authority of the Chief Justice to transfer moneys. The 2015 Senate Committee on Judiciary adopted a technical amendment to the bill, and the 2015 House Committee on Judiciary heard the bill but took no further action. Provisions similar to those contained in SB 44, as amended by the Senate Committee and heard by the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

House Committee, subsequently were enacted in 2015 HB 2005.

The 2016 House Committee on Judiciary recommended a substitute bill for SB 44 with entirely different language drawn from HB 2256, as passed by the House, amending the Commercial Real Estate Broker Lien Act. Further background regarding HB 2256 is provided below.

The 2015 fiscal note prepared by the Division of the Budget on SB 44 does not address the contents of the House substitute bill. Fiscal note information for HB 2256 is provided below.

Background of HB 2256, As Passed By The House

In the House Committee on Judiciary hearing, a representative of the Kansas Association of Realtors appeared in support of the bill and explained the addition of “lessee or grantee” is intended to address an ambiguity in current statute. Concerning the extension of the filing deadline, the representative explained liens typically are used as leverage to obtain payment when a person has fallen behind. Extending the deadline would give more time for the lessee to catch up and could reduce the number of liens filed if the parties are able to resolve the situation during that extended time period.

The 2015 fiscal note prepared by the Division of the Budget for HB 2256 indicates passage would have no fiscal effect on the operations of the Kansas Real Estate Commission.

[Note: The 2015 Senate Committee on Judiciary subsequently made a technical amendment to HB 2256 and the bill was passed by the Senate. (During the House Committee’s consideration of House Sub. for SB 44, the technical amendment was determined to be unnecessary and was therefore not included in House Sub. for SB 44.) A

conference committee report was then adopted by both chambers replacing the amended contents of HB 2256 with the language of SB 206, as amended by the House Committee on Judiciary, regarding the Kansas Open Records Act and Kansas Open Meetings Act.]