

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:22 A.M. on February 25, 2008 in Room 784 of the DSOB.

All members were present except:

Brenda Landwehr- excused
Candy Ruff- excused
John Grange- excused
Louis Ruiz- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Renaë Jefferies, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Sherry Diel, Kansas Real Estate Commission

Others attending: See attached list.

The Chairman called for the committee to work **Substitute for HB 2826 - Enacting the homeowners' association act**. This bill is a combination of the wording from **HB 2445, HB 2837 and HB 2826**.

Renaë Jefferies was called upon to explain the wording of the Substitute for HB 2826 (Attachment 1).

Representative Kiegerl asked why we wanted to limit mediation to two hours. Representative Pauls said that it was to protect the resident from having to pay for long mediation when it was not necessary.

Representative Brunk asked Renaë if the bill allowed voting by proxy, mail or other means. Renaë said yes. He further asked if the Attorney General supported developing the educational literature and website. Representative Huntington said that he was verbally committed to it. Finally he asked how the home owners association would know to implement these changes required by the act. Renaë said that it was usually in the newspaper. They would learn of it the same way that they do any change in the law.

Representative Huntington made a motion to amend the wording of Section 2, subsection (a) to add “in person or by proxy”. Seconded by Representative Metsker and passed by unanimous voice vote.

Representative Huntington made a motion to add the following wording to Section 2, subsection (e). “The board of directors shall not meet in closed executive session unless it is in consultation with its attorneys about matters properly a part of the attorney-client relationship or if it involves personnel matters of a confidential nature”. The motion was seconded by Representative Humerickhouse and passed by unanimous voice vote.

Representative Huntington made a motion to clarify the language of Section 2, subsection (f) to state that the board of directors, “at least 15 days before adopting any proposed assessments, special charges or fees of general application” shall notify the homeowners, apartment owners or residents of such assessments, special charges or fee. It was seconded by Representative Humerickhouse. The motion passed on a unanimous voice vote.

Representative Huntington made a motion to amend Section 3, subsection (a) after the word “association” to read “to receive and tally the ballots cast for the election of members of the board of directors, to verify the number of votes received against the number of persons voting and proxies voted.” The motion was seconded by Representative Humerickhouse and passed with a unanimous voice vote.

Representative Huntington made a motion to clarify Section 3, subsection (d) to include language that the dispute resolution procedure would be fully implemented no later than one year following the effective date of the act. The motion was seconded by Representative Pauls and passed with a

CONTINUATION SHEET

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unanimous voice vote.

Representative Huntington made a motion to add subsection (i) to Section 5 to provide that: “The provisions of this section shall not apply to any homeowners’ association with an annual budget less than \$100,000 unless the homeowners’ association opts in to the provisions of this section. The second was by Representative Humerickhouse and passed by unanimous voice vote.

The Chairman asked Renae Jefferies to produce a final copy of the bill and it would be worked tomorrow.

The Chairman call the attention of the committee to work **HB 2746 - Amendments to real estate brokers' and salespersons' license act; advertising.**

Sherry Diel was called upon to explain the balloon amendment (Attachment 2). The amendments supplied an enlargement of what constitutes unprofessional conduct.

Representative Huntington asked about New Section 6, subsection (a) if the words “No licensee” included a broker or an agent. Sherry replied yes it would include them.

Renae Jefferies asked about the crossed off sections in the balloon. Sherry said that they were not being taken out of the bill. They were crossed off because she was not dealing with them.

Representative Pauls said that it was a helpful clarification.

Representative Brunk asked if the “unprofessional conduct” language had been struck. Sherry said yes.

Representative Pauls made a motion to move the balloon amendment. Representative Humerickhouse seconded the motion. The motion passed on a unanimous voice vote.

The Chairman asked Sherry to explain a Technical Balloon (Attachment 3). The first change was on page 16 of the bill where the language “whether acting as an agent, transaction broker or a principal” was stricken. Technical changes were made on page 17. The word “licensee” was added in place of “broker, associate broker or salesperson” on lines 17 and 18 and lines 24 and 25. On page 18 the words “or (26) were added to allow forgery to be covered by the recovery fund.

Renae Jefferies pointed out that the change on page 18 should be “or (25) rather than “or (26). Sherry looked at it and agreed.

Representative Huntington made a motion to adopt the Technical Balloon and it was seconded by Representative Humerickhouse. It passed by a unanimous voice vote.

Representative Kiegerl made a motion to strike the words “or attempt to represent” on page 11, line 30 of the bill. The motion was seconded by Representative Tietze and passed by unanimous voice vote.

Representative Pauls made a motion to move the bill out as amended. Representative Tietze seconded the motion. The motion carried by a unanimous voice vote.

The chairman said that the next meeting was tomorrow and adjourned the meeting at 10:35 A.M.