

Memo To: Chairperson Ostmeyer and Members of the Senate Federal and State Affairs Committee
From: Sherry C. Diel, Executive Director
RE: HB 2077—Licensure of Military Service Members
Date: March 7, 2013

Chairperson Ostmeyer and members of the Committee, the Kansas Real Estate Commission wishes to thank you for giving the agency an opportunity to present **neutral** testimony on HB 2077.

Agency Information and Background

The Kansas Real Estate Commission is the state agency that is responsible for licensing and regulating real estate salespersons and brokers. The Commission is comprised of five members appointed by the Governor. One commissioner is appointed from each congressional district and the remainder shall be appointed from the state-at-large. At least three commissioners must be real estate brokers for the five years preceding their appointment to the Commission and at least one commissioner shall have never been a real estate broker. The Commission staff issues original and renewal licenses, processes licensee affiliation and demographic changes, processes company changes, approves and tracks continuing education curriculum, approves instructors, audits brokerage trust accounts and transaction files, investigates complaints and takes disciplinary action when deemed appropriate.

The Commission is very appreciative of the sacrifice that military service members and their families make on a daily basis to enable Kansans to enjoy freedom and security. The Commission endeavors to comply with the State's mandates for military personnel and their spouses while ensuring that the public interests are protected. To that end, the Commission would like to present neutral testimony on HB 2077.

The Commission Supports the House Amendments to HB 2077 Requiring Honorable Discharge for the Protections of the Legislation to Apply

Because there are other types of discharges/dismissals from the military other than "Dishonorable" that may involve conduct that is of concern to a licensing body, the House amendments to HB 2077 regarding the definition of "applicant" [Page 1, Lines 7-9] and "military service member" [Page 2, Lines 12-14] as a person who entered into military service and separated from such service under an "honorable discharge" enables the Commission to continue its mission to protect the public by licensing only those persons that meet the qualifications for licensure. The original language in the bill applying the protections of the legislation to military personnel who were discharged under "conditions other than dishonorable" caused concern because there are actually five types of military discharges. Besides a dishonorable discharge, there is an administrative discharge known as "Other than Honorable Conditions" that usually causes the person to lose benefits and prevents them from re-enlisting. There is a general discharge. There is also a type of discharge known as "Bad Conduct" which is given by court-martial for enlisted persons. The equivalent to a Bad Conduct discharge for commissioned officers would be an "Officer Dismissal."

Request “Completed Application” Be Amended to “Complete Application

The House amendments require submission of a completed application and an affidavit for the issuance of a probationary license for a period not to exceed three months. Because documents in addition to submission of an application filled out by the applicant must be submitted for the agency to determine if the applicant has completed equivalent education, examination and experience as required for Kansas licensure, the Commission respectfully requests the term be changed from “completed” to “complete” application in the following locations in the bill: (1) Page 1, Line 16; (2) Page 2, Line 20; and (3) Page 2, Line 23.

The Commission Does Not Have a Probationary or Temporary License Status

The Commission grants licensure according to Section 2(c)(2)(A) of HB 2077 by considering whether the applicant holds a current license in another state that has requirements that are equivalent to or higher than Kansas’ course and examination requirements for salespersons and brokers. Kansas statutes require real estate applicants to pass a national portion and state portion of the licensure examination. Broker applicants must also meet specified experience requirements. However, Kansas statutes also require that salesperson and broker applicants complete a specified course on Kansas law and pass the Kansas portion of the licensure examination even if other application requirements have been deemed to be met under the equivalency provisions.

The current law for military spouses, which would be amended by HB 2077 to add military service members and limit coverage to only nonresident military spouses, requires the issuance of a probationary license for a duration not to exceed three months after the applicant submits an application and affidavit. The probationary license can be revoked if the information on the affidavit is later found to be false [Page 3, Lines 14-19].

Section 2(f)[Page 3, Lines 41-43 through Page4, Lines 1-6] been added by HB 2077 to provide the licensing agency with discretionary authority to grant a temporary license for an unspecified limited period of time to allow the military service member to practice while completing any specific requirements that are required for licensure in Kansas that were not required in the service member’s state of residence or are determined by the licensing body to be not equivalent to Kansas requirements pursuant to Section 2(c)(2)(A). The legislation leaves it to the discretion of each agency, I assume by agency order, what requirements will need to be met during the temporary period of licensure.

It is important to note that because the Commission’s statutory licensure structure does not provide for probationary or temporary licenses, the Commission’s licensure system is not programmed to issue probationary or temporary licenses. Because of the extensive business rules that would need to be written for the licensure system for just a few applicants that may benefit from HB 2077, it would not be cost effective for the Commission to update its licensure system to issue these types of licenses. However, the Commission does have authority to restrict and condition licenses by order as necessary to comply with the statutory mandates contained in HB 2077, with a couple of minor deviations. A license may not properly display on the Commission’s website as being temporary or probationary since the data for the website is downloaded from the licensure system. The bottom line is the Commission can comply with the statutory mandate manually but there may be a few technology issues that cannot be addressed because it is not cost effective to do so.

If the Committee members have any questions, feel free to contact me.