

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on March 15, 2006 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary

Conferees appearing before the committee:

Ron Gaches, Kansas Assn. Of Financial Services
Randy Anderson, Kansas Assn. Of Mortgage Brokers

Others attending:

See attached list.

The Chair called the meeting to order and opened with the hearing on **(HB 2735) - An act relating to real estate loans; concerning the appraised value.** The Chair called on Melissa Calderwood for an overview of the bill. Ms. Calderwood said **(HB 2735)**, as amended, would amend the general definitions provision of the Kansas Uniform Consumer Credit Code to expand the definition for the term, "Appraised Value" and also would amend real estate law regarding disclosure of a loan amount to an appraiser or other person determining appraised value. In addition to the two provisions in the current statutory definition in the Code, "Appraised Value" would mean the estimated market value as determined through an automated valuation model acceptable to the Administrator, in the case of a non-purchase money real estate transaction. The bill also defines an automated valuation model as an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristics and historical home price appreciations. The models would be required to be validated by an independent credit rating agency. The model provider would be permitted to accept a property valuation assignment when the assignment itself is contingent upon the model provider reporting a predetermined property valuation or when the fee to be paid to the provider is contingent upon the property valuation reached or upon the consequences from the property evaluation assignment. She said in addition, the bill would prohibit a lender, or any person acting on behalf of a lender, from disclosing to an appraiser or other person engaged to determine the appraised value of real estate, the amount of a proposed real estate loan or the preferred or required value of any real estate intended to secure such loan.

The Chair called on Ron Gaches, Kansas Association of Financial Services, who testified in support of **(HB 2735)**. Mr. Gaches said **(HB 2735)** authorizes the use of automated valuation in determining the value of real estate in the case of a nonpurchase money real estate transaction. He said the bill provides that the Bank Commissioner's office would have sole authority to determine which automated valuation method might be acceptable as a substitute for a regular appraisal. A number of national firms now specialize in providing these valuation services and 46 states now allow their use. He said proposed language of Kansas Association of Financial Services specifically provides that the automated valuation method could not be used for purchase money real estate transactions. So, the tool would be used for refinancing or for second mortgages. He said the chief advantage for consumers, mortgage borrowers, is a significant savings at the time of closing. Depending on the location in the state, a typical second mortgage appraisal might cost in the range of \$250-\$300. The maximum cost for an automated valuation model appraisal is about \$50. Since the borrower pays the fee for the appraisal, the consumer savings is significant, in the \$225-\$300 range. He said the chief advantage for the lender is speed and the ability to provide the borrower a product at a lower cost. Automated valuation models (AVM) are computerized databases with nearly immediate response times. Many lenders supplement the AVM with a visual inspection to ensure the property is in good shape, he said.

CONTINUATION SHEET

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Mr. Gaches said the other advantage of AVM is that it is an effective tool against appraisal fraud. Appraisal fraud is the practice of appraising a property for greater than its true fair market value for the purpose of selling the borrower a home at a price greater than fair market value or taking advantage of the lending company by borrowing money greater than the FMV needed to actually purchase the home. Such fraud is relatively rare, but seems to be a growing problem, he said. He said **(HB 2735)** offers consumers a savings while still protecting the interests of lenders and borrowers and urged the committee's support. (Attachment 1)

Mr. Gaches submitted written testimony from Randy Anderson, Kansas Association of Mortgage Brokers. Mr. Anderson had to cancel due to illness of his mother. (Attachment 2)

The Chair closed the hearing on **(HB 2735)**.

Final Action

The Chair called for final action on **(HB 2159) - An act concerning consumer protection; relating to damage waivers.**

Senator Wysong moved to pass the bill out favorably as amended. Senator Wilson seconded. Motion passed.

The Chair called for final action on **(HB 2659) - An act concerning insurance; relating to examinations of title.**

Senator Wysong moved to pass the bill out favorably. Senator Schmidt seconded. Motion passed.

The meeting adjourned at 10:15 a.m. The next meeting of this Committee is scheduled for March 16, 2006.