

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 11, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Melissa Doebelin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Sherry Diel, Kansas Real Estate Appraisal Board
Luke Bell, Kansas Association of Realtors
Bruce Fitzsimons, Kansas Real Estate Appraisal Board
Richard E. Livingston, Livingston Appraisals, Inc.,
Larry Magill, Kansas Association of Insurance Agents
Vicky Johnson, Kansas Department of Transportation
Kathleen Taylor Olsen, Kansas Bankers Association

Others attending:

See attached list.

The Supreme Court of Kansas unanimously ruled that the so-called judicial trigger provision in the 2007 Funeral Privacy Act invalidated the entire act under the separation of powers doctrine, but divided 6-1 on whether the provision could be severed from the rest of the legislation. The Court filed today's decision as soon as it was ready, to allow more time for legislators to address the issue again if they choose to do so. (Attachment 1) The opinion No. 98,691, in its entirety, is located in the Kansas Legislative Research Department.

Bill Introduction:

Sandy Jacquot, League of Kansas Municipalities, requested a bill introduction allowing Cities; fee authorized for credit card use. (Attachment 2)

Senator Barnett moved that this request should be introduced as a committee bill. Senator Gilstrap seconded the motion. The motion carried.

HB 2746 - Amendments to real estate brokers' and salespersons' license act; advertising

Chairman Brungardt opened the hearing on **HB 2746**.

Staff provided an overview of the bill, which included the Real Estate Commission fee fund.

Sherry Diel, Executive Director, Kansas Real Estate Commission, appeared in favor of the bill. (Attachment 3) The bill would clarify legislation passed in 2007 regarding licensure of real estate salespersons and brokers and to address matters that have come to the attention of the Commission; an Attorney General Opinion concerning the Commission's ability to deny a renewal application of a licensee convicted of a felony is also addressed, and includes items compiled by the Commission's disciplinary committee which monitors disciplinary cases. A technical amendment on advertising regulation was included.

Luke Bell, Director of Governmental Relations, Kansas Association of Realtors, (KAR) spoke in favor of the bill. (Attachment 4) The bill would make several technical and substantive changes to the real estate license act. KAR supports the Commission's:

- proposed technical changes to clarify certain aspects of **2007 HB 2295**
- proposed technical change to ensure that the Commission has the authority to deny the renewal of a license in certain situations
- proposal to increase fines for basic violations of the Real Estate License Law and the Brokerage

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- Relationships in Real Estate Transactions Act (BRRETA)
- proposal to levy a \$5,000 maximum fine for certain extremely serious violations of the Real Estate License Law and BRRETA
- proposal to allow deduction of the actual costs of investigating the violation from the fine amount submitted to the State General Fund
- proposal to add new violations for unprofessional conduct to the Real Estate License Law
- proposal to enact new requirement on advertising by Real Estate Salespersons and Salesperson Team
- Proposal to provide funding for various consumer and licensee educational program from the Real Estate Recovery Fund

Chairman Brungardt closed the hearing on **HB 2746**.

HB 2772 - Real estate appraisers, full licensure

Chairman Brungardt opened the hearing on **HB 2772**.

Staff provided an overview of the bill.

Bruce Fitzsimons, Kansas Real Estate Appraisal Board,(KREAB) spoke in favor of the bill. (Attachment 5) The bill is directed at curbing and preventing mortgage fraud and addresses current weaknesses in appraiser regulations, addressing these concerns by prohibiting the use of appraisals performed by non-licensed appraisers for use in real estate related financial transactions.

Richard E. Livingston, Livingston Appraisals, Inc., appeared in support of the bill. (Attachment 6) The bill would level the field where the State Appraisal Board has jurisdiction over all appraisals and the power to regulate the profession in the state.

Tony Scott, The Kansas Society of Certified Public Accountants, spoke in favor of the bill and appeared neutral to preserve the exemption that was attached and passed in the House. (Attachment 7)

Sally Pritchett, Executive Director, Kansas Real Estate Appraisal Board, provided written testimony in favor of the bill. (Attachment 8)

Jack H. Shelton, Jr.,Shelton and Associates, provided written testimony in favor of the bill. (Attachment 9)

Larry Magill, Kansas Association of Insurance Agents, appeared in opposition to the bill with an amendment. (Attachment 10) The concern with the bill is that insurance agents may inadvertently be included in the appraiser licensing requirement when they are performing normal duties, involved in helping an insured determine the replacement cost of their home for insurance purposes. Under the provisions of the bill it could be argued that insuring a home is a “real estate related financial transaction” A balloon was provided that adds new language to page 4, new section (i).

Vicky Johnson, Chief Counsel, Kansas Department of Transportation,(KDOT) appeared neutral on the bill with an amendment. (Attachment 11) The bill if passed in its current form, would require that appraisals done for eminent domain actions and the purchase of right of way be performed by a state certified appraiser or under the direct supervision of a state certified consultant. KDOT requests an amendment which would exempt employees of a governmental entity who are performing appraisals for the purchase or disposition of real estate by a governmental entity from the requirement that an appraiser be state certified or licensed. The majority of (85%) KDOT appraisals total less than \$25,000; most are for farm/agricultural land purchased for the purpose of constructing/maintaining the state’s transportation system and the majority of tracts are purchased without the need for any eminent domain action. A balloon was provided that adds new language to page 4, new section (i).

Kathleen Taylor Olsen, Kansas Bankers Association, (KBA) appeared neutral on the bill. (Attachment 12) The KBA requested an exemption in subsection (e)(1) from requiring a state certified or licensed appraiser in limited circumstances where an employee of a financial institution conducts an “evaluation” in accordance with state and federal banking regulations.

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The KBA is not objecting to the language found in subsection (e) (2; nationally-chartered banks would most likely be allowed to follow the rules established by the secondary market and would be pre-empted from these state restrictions. Should this occur in the future, there are means by which state-chartered banks can seek parity and we would reserve the right to do so at that time. Attached to the testimony is "Evaluation" rules for State banks and Interagency Appraisal and Evaluation Guidelines for Federal banks.

Chairman Brungardt closed the hearing on **HB 2772**.

The meeting was adjourned at 11:50 am. The next scheduled meeting is March 12, 2008.