

Approved: 3/19/10

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:02 a.m. on March 2, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

Representative Sean Gatewood- excused

Committee staff present:

Art Griggs, Office of the Revisor of Statutes

Renae Jefferies, Office of the Revisor of Statutes

Jerry Donaldson, Kansas Legislative Research Department

Dennis Hodgins, Kansas Legislative Research Department

Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Ron Hein, Hein Law Firm, Chartered

Sherry C. Diel, Kansas Real Estate Commission

Others attending:

See attached list.

**SB 377 - Kansas home inspectors professional competence and financial responsibility act**

Renae Jefferies, Assistant Revisor, gave an explanation of the bill (Attachment 1).

Representative Quigley asked if there was a cap on the liability insurance. Renae said there was no cap on the year.

Representative Tietze asked if the amount of liability insurance required to be carried by each inspector was dropped from the bill.

Ron Hein, Hein Law Firm, Chartered, presented testimony as a proponent of **SB 377** (Attachment 2). One of the issues discussed on both sides of the capitol was limits of liability. Some wanted \$10,000.00, some wanted higher and some wanted lower. As a result of the conference committee report the limit was set at \$2,000.00. This is a technical cleanup bill. We should come back later and visit the limit of liability.

Representative Grant asked what happens if an inspector misses a big ticket item. Ron said that insurance does not always cover everything. They would probably be sued. The inspectors word their contracts so that owners will know the limits of liability.

Representative Swenson asked if the \$2,000.00 liability would limit small claims court. Ron said no.

Representative Quigley asked if page 4, lines 1-4 allow the establishment of a greater liability. Ron said there was nothing in the bill that limits the ability of an inspector to set a higher liability.

Representative Worley asked if they have to show proof of liability insurance to be licensed and what is the amount. Ron said that he believed that they did have to show insurance and was not sure of the amount. Renae said that it was \$2,000.00 per inspection. They have to show financial responsibility by showing a policy of errors and omissions, a surety bond of not less than \$10,000.00, an irrevocable letter of credit not less than \$10,000.00 or a minimum balance of \$10,000.00 in an escrow account in a Kansas institution.

Luke Bell said that their liability for negligence is \$100,000.00, plus \$10,000.00 for inspections and each inspection is \$2,000.00. The insurance company says that 95% of claims come in under \$1,500.00.

Representative Jack asked if this liability would limit their liability for misrepresentation. Ron said that this is not a cap. The insurance does not limit their liability.

Representative Suellentrop asked Luke Bell what the cost of an inspection was. Luke said that it is \$250 to

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:02 a.m. on March 2, 2010, in Room 784 of the Docking State Office Building.

\$450 depending on the size of the house.

The Chairman said that the industry has been working on this for several years. We just need to fix the misprint in the bill. We are just trying to get the misprint fixed and let the industry settle in for three years and see then if there needs to be any corrections.

The Chairman closed the hearing on SB 377.

**HB 2560**      **Real estate salespersons and brokers, amendments related to technical changes and restricted and conditioned licenses**

The Chairman opened the hearing on HB 2560.

Renae Jefferies explained the changes in HB 2560 (Attachment 3).

Luke Bell said that the reason the bill is back in our committee was because they felt that it was not a good time for fee increases. So we would like the fee increase stripped out of Section 11, page 21.

The Chairman said it was exactly like we passed out before except for the fee increases.

Representative Hermanson made a motion to accept the bill as previously amended and amended today. Seconded by Ruiz. The motion carried.

Representative Hermanson made a motion to pass the bill out favorably as amended. Seconded by Representative Ruiz. The motion carried.

The next meeting is scheduled for March 4, 2010.

The meeting was adjourned at 09:58 a.m.

COMMERCE & LABOR COMMITTEE

DATE: 3-2-10

NAME	REPRESENTING
Sherry C Diet	KS Real Estate Comm
Luke Bell	KS Assoc. of REALTORS
Kor Heri	KS Assoc. of Real Estate Inspectors
Gary Farnsworth	METRO Home Property Inspectors
TED HEWEL	CS.
Duy Pham	Rep. Ruiz's intern
Sara Freeman	Rep. John Grandje
Matt Carey	GSA
Lori Church	KAPCIC
Robt Johnson	Ferguson Consulting

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MEMORANDUM

To: House Committee on Commerce and Labor  
From: Renae Jefferies, Assistant Revisor  
Date: February 2, 2010  
Subject: SB 377

SB 377 is the same as House Substitute For Senate Bill 324 which this committee recommended for passage, but it failed on the floor.

The bill amends pages 1 and 4 to reduce a home inspector's liability on each home inspection to \$2,000 for that inspection. This change is a technical clean up made to keep the terms consistent with the changes which were made in the Kansas Home Inspectors Professional Competence and Financial Responsibility Act last year.

The bill takes effect upon publication in the Kansas Register.

The fiscal note states that passage of the bill would not affect revenues of expenditures of the Kansas Home Inspectors Registration Board.

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**Testimony re: SB 377  
House Commerce and Labor Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Association of Real Estate Inspectors  
March 2, 2010**

Mr. Chairman, and Member of the Committee:

My name is Ron Hein and I am legislative counsel for Kansas Association of Real Estate Inspectors (KAREI). KAREI is the professional trade association for individuals who inspect real estate, primarily residential homes, in order to protect individual home buyers from electrical, plumbing, mechanical, construction, or other problems that might otherwise be undetected by home buyers. KAREI is comprised of approximately 120 real estate inspectors in the state of Kansas.

KAREI supports SB377. SB 377 is nothing more than a simple clean up bill, after the conference committee report adopted last year inadvertently contained errors which cause conflicts in the real estate inspector law that was enacted on an overwhelming vote.

This bill would appear to change amounts of liability in the legislation itself, but in actuality, the decision was made last year to set the liability amount at \$2,000, and the changes in SB 377 merely correct conflicting provisions that resulted from the incorrect conference committee report.

There are NO substantive changes in SB 377, simply technical ones to eliminate the inherent conflicts in the statute currently, given last year's technical error.

KAREI urges the committee to adopt this technical clean up measure.

Thank you for permitting me to testify and I would be happy to yield to questions.

House Commerce & Labor

Date: 3.2.10

Attachment # 2

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MEMORANDUM

To: House Committee on Commerce and Labor  
From: Renae Jefferies, Assistant Revisor  
Date: February 2, 2010  
Subject: HB 2560

HB 2560 amends statutes relating to real estate brokers and salespersons. Section 4, on page 4 of the bill, was extensively amended by striking all of the language of K.S.A. 58-3041 and inserting new language. Subsection (a), on page 5, applies to original and renewal applications and sets out when restrictions or conditions may be imposed on such licenses. Subsection (b), on page 6, is intended to provide a nonexclusive list of restrictions or conditions that may be imposed when an original or renewal application is considered. Subsection © , on page 7, deals with applications for original licensure and renewals of broker's licenses that lack solely the requisite experience or related education to qualify for an unrestricted or conditional license. Subsection (d), also on page 7, sets forth the reasons that restrictions and conditions can be imposed in a disciplinary action. Subsection (e), on page 8, is intended to provide a nonexclusive list of restrictions or conditions that could be imposed for disciplinary reasons. Subsection (f), also on page 8, provides that whether restrictions or conditions are granted or a license is denied, suspended or revoked is solely up to the Commission. It also that licenses that are restricted or conditioned are not automatically renewed. Subsection (g), also on page 8, provides that restrictions or conditions shall not be imposed on a license unless the applicant is provided with notice and an opportunity to be heard.

New subsection (b) was added to K.S.A. 58-3043 concerning the granting of an original license or a renewal to an applicant who had a prior revocation, conduct or plea of guilty or nolo contendere or to a conviction of a misdemeanor.

Section 7 on page 11, allows for a withdrawal of an incomplete application for licensure.

Section 11, on page 20, concerns fees for licensure and contains an increase of some of the statutory caps on some fees in K.S.A. 58-3063.

Section 13, on page 23 to 24, amends K.S.A. 58-30,101 to provide that when there is a conflict between the brokerage relationships in real estate transactions act and common law, the act controls.

Section 14 , on page 24 et seq., adds definitions for “exclusive agency agreement,” “exclusive right to sell agreement,” and “written transaction brokerage agreement” to the brokerage relationships act.

Sections 1, 2, 3, 5, 8, 9, 10, and 12 of the bill contain technical changes to those statutes, including in particular substituting “association, corporation, limited liability company, limited liability partnership, partnership or professional corporation “ for “foreign or domestic corporation, partnership or association.

The act will take effect upon publication in the statute book.

The fiscal note reflects no fiscal effect on the state general fund at this time.