

Approved: 3-17-93  
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Marvin Smith at 9:00 a.m. on March 16, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Tom Bradley (Excused)  
Representative Sheila Hochhauser (Excused)  
Representative Ed McKechnie

Committee staff present: Carolyn Rampey, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Arden Ensley, Revisor of Statutes  
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:

Carolyn Rampey, Legislative Research Department  
Gene Yockers, Director, Kansas Real Estate Commission  
Karen France, Kansas Association of Realtors  
Chris Barteldes  
Fritz Kramer  
Earl Brown  
Harold Ackerley  
Representative Gwen Welshimer  
Virginia Craig

Others attending: See attached list

Carolyn Rampey, Legislative Research, provided background and information concerning SB 269, SB 270 and SB 271 (Attachment 1).

Hearing on:

SB 270 - amendments to state certified and licensed real property appraisers act.

Gene Yockers, Kansas Real Estate Commission, testified in support of SB 270 (Attachment 2). He requested an amendment to extend to June 30, 1994 the time for transitional licenses to be converted to licenses and that to be effective upon publication in the Kansas Register. Another amendment would change all references to "board" back to "commission".

Karen France, Kansas Association of Realtors, gave testimony in support of SB 270 and requested an amendment to reduce the 2,000 hours of experience required to 500 hours (Attachment 3). She stated it is very difficult to get 2,000 hours of experience in two years as required.

Chris Barteldes, a licensed real estate agent from Lawrence, appeared in support of the amendment in SB 270 to change the number of hours experience to 500 hours.

Fritz Kramer, licensed in real estate in Kansas and Missouri for 19 years, spoke in support of the amendment in SB 270 to change the number of hours of experience from 2,000 to 500 hours.

Earl Brown, realtor, auctioneer, and appraiser in Junction City, appeared in support of the amendment in SB 270 to change from 2,000 to 500 hours the hours of experience required for appraisers. He stated in a rural area it was impossible to get 2,000 hours of experience because it would take 250 appraisals. For residential reviews you receive one hour of experience.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on March 16, 1993.

Harold Ackerley, Paola, appeared before the committee to relate his experience as an appraiser with the training but not able to acquire the 2,000 hours of experience required.

Representative Gwen Welshimer provided testimony on SB 270 and ask for an amendment to reinstate the annual license renewal (Attachment 4).

Virginia Craig, a real estate appraiser for 15 years, spoke in opposition to the amendment on SB 270 to decrease the hours of experience to 500.

SB 269 - administration of state certified and licensed real property appraisers act.

Gene Yockers, Kansas Real Estate Commission, testified in support of SB 269 to separate the Real Estate Appraisal Board from the Kansas Real Estate Commission (Attachment 5). He also asked to change "director" to "chairperson" and suggested it may be appropriate to amend SB 270 into SB 269.

SB 271 - real estate brokers' and salespersons' license act; amendments.

Gene Yockers, Kansas Real Estate Commission, provided testimony in support of SB 271 (Attachment 6). He requested an amendment making an exception for courses reviewed pursuant to subsection (j). Another amendment would allow an individual licensee to submit a course and receive credit if it meets the objectives of continuing education. A third amendment would change language concerning the disclosure requirements if a licensee represents both the buyer and seller. The final amendment would allow the commission to provide suggested forms of agency disclosure and agency agreements.

Representative Dillon moved approval of the minutes for March 15, 1993 as submitted. Representative Gilbert seconded. Motion carried.

The meeting was adjourned at 10:35 a.m. The next meeting is scheduled for March 17, 1993.

GUEST LIST

COMMITTEE: House Governmental Organization & Elections DATE: 3-16-93

[illegible]

# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
Room 545-N – Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

March 16, 1993

**To:** House Committee on Governmental Organization and Elections  
**From:** Carolyn Rampey, Principal Analyst  
**Re:** Background Information on the Real Estate Appraisal Board

In 1990, the Legislature enacted the State Certified Real Estate Appraisers Act and created the Real Estate Appraisal Board. The legislation was enacted in response to the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The federal law was intended to reform the savings and loan industry and one provision was aimed at improving the quality and ensuring greater uniformity of real estate appraisals. That provision required that, beginning July 1, 1991, real estate appraisals performed in connection with federally-related transactions had to be done by persons who met certain qualifications. (The federal regulatory agencies involved included the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.)

At the time, Kansas had no certification or regulation of real estate appraisers. In order to comply with the federal law, states had to have a procedure in place that met federal standards with regard to educational and other requirements to be a real estate appraiser.

The response in Kansas was to create the seven-member Real Estate Appraisal Board. The Board, appointed by the Governor, was comprised of at least one member who represented the general public, two members who represented financial institutions, and at least three members who were real estate appraisers. After the terms of the original members expire (there are two original members still on the Board), all real estate appraisers appointed to the Board must be certified, at least one appraiser member must be a certified general real property appraiser, and the public member cannot be affiliated with any financial institution or be in the practice of real estate appraising. Members serve three-year terms, with a limit of two consecutive terms.

Duties of the Board include approving and monitoring courses of instruction for real estate appraisers; administering or designating a testing service to administer the qualifying examination; approving or disapproving applications for certification; renewing certificates; and reviewing, explaining, and interpreting real estate appraisal standards.

When the Board was created in 1990, the Legislature did not create a separate agency, but placed the Board within the Real Estate Commission for administrative purposes. However, the Board is independent in the sense that actions taken with regard to the certification of real estate

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appraisers are not reviewed by the Real Estate Commission and the Real Estate Commission has no jurisdiction over real estate appraisers.

At the present time, the Real Estate Appraisal Board has no employees of its own. The Real Estate Commission, which currently has 15 full-time equivalent (FTE) positions, assigns its staff to assist the Board in its duties. For purposes of its budget, the Commission pays the salaries of one of its clerical employees and part of an administrative position (0.3 FTE) from fees collected by the Real Estate Appraisal Board. The amount of money currently budgeted by the Real Estate Commission for the Real Estate Appraisal Board in FY 1994 is \$73,385, which consists of the salaries of the 1.3 FTE positions and office expenses such as travel, equipment, and rent that can be attributed to the Appraisal Board.

S.B. 269, currently in the House Committee on Governmental Organization and Elections, would separate the Real Estate Appraisal Board from the Real Estate Commission and establish it as a separate state agency. The fiscal impact of S.B. 269 is estimated by the Division of the Budget to be \$39,174, in addition to the already-budgeted \$73,385, for a total expenditure in FY 1994 of \$112,559. (The additional money consists of \$23,110 for a full-time administrator, \$7,972 for furniture and equipment, and \$8,092 for office rent.) However, according to the Real Estate Commission, even if S.B. 269 does not pass, the Commission plans to come before the Legislature during the Omnibus Session to ask for additional expenditure authority above the \$73,385 for costs associated with the Real Estate Appraisal Board. Specifically, the Commission will ask for a new position to serve as full-time administrator for the Real Estate Appraisal Board.

## Fee Fund Analysis

**1. Real Estate Fee Fund.** Real estate brokers and salespersons licenses are issued and renewed for a two-year period on a staggered basis. More revenue is typically received in even-numbered years than in odd numbered years. The following table summarizes estimated receipts, expenditures, and fund balances based on the agency's request and the Governor's recommendation:

Resource Estimate	Actual FY 92	Agency Est. FY 93	Gov. Rec. FY 93	Agency Req. FY 94	Gov. Rec. FY 94
Beginning Balance	\$ 434,462	\$ 496,214	\$ 496,214	\$ 387,785	\$ 399,155
Transfer from Appraiser Fee Fund	25,000	--	--	--	--
Net Receipts	524,900	463,400	463,400	501,936	501,936
Total Funds Available	\$ 984,362	\$ 959,614	\$ 959,614	\$ 889,721	\$ 901,091
Less: Expenditures	488,148	571,829	560,459	581,791	565,003
Ending Balance	\$ 496,214	\$ 387,785	\$ 399,155	\$ 307,930	\$ 336,088
Ending Balance as a Percentage of Expenditures	101.7%	67.8%	71.2%	52.9%	59.5%

**2. Appraiser Fee Fund.** This fee fund was established by the 1990 Legislature for the operations of the appraisal board. The Commission performs the following functions for the Board: processing new and renewal applications for certification and licensure; maintaining a current registry; and assisting the Board in daily operations. The following table summarizes estimated receipts, expenditures, and fund balances based on the agency's request and Governor's recommendation:

Resource Estimate	Actual FY 92	Agency Est. FY 93	Gov. Rec. FY 93	Agency Req. FY 94	Gov. Rec. FY 94
Beginning Balance	\$ 23,470	\$ 96,976	\$ 96,976	\$ 169,156	\$ 177,516
Net Receipts	153,212	145,120	145,120	130,800	130,800
Total Funds Available	\$ 176,682	\$ 242,096	\$ 242,096	\$ 299,956	\$ 308,316
Less: Expenditures	54,706	72,940	64,580	76,555	73,385
Transfer to Real Estate Fee Fund	25,000	--	--	--	--
Ending Balance	\$ 96,976	\$ 169,156	\$ 177,516	\$ 223,401	\$ 234,931
Ending Balance as a Percentage of Expenditures	177.3%	231.9%	274.9%	291.8%	320.1%

11-2  
House Governmental Organization and Elections Committee  
March 16, 1993  
Senate Bill 270

Mr. Chair and members of the committee:

My name is Gene Yockers, and I am the Director of the Kansas Real Estate Commission. The Real Estate Appraisal Board is attached to the commission for administrative purposes, and I am here on behalf of the board. We are also requesting that you amend the bill, and copies of the amendments have been distributed along with my testimony.

Senate Bill 270 has two major purposes: (1) to change from a one-year to a three-year renewal term, and (2) to provide that investigations and disciplinary actions apply to any appraisals performed by licensed and certified appraisers.

(1) CHANGE TO THREE-YEAR RENEWAL TERM

Section 1 (page 1) is the fee section. There is no change in the maximum license/certificate and renewal fees. The language "based on an annual amount" has been added to address both the one-year and three-year terms.

A \$25 annual federal registry fee is collected from each appraiser and transmitted to The Appraisal Subcommittee. The amendment in subsection (f) addresses collection of the fee in the event it is increased during a three-year renewal term.

Section 3 (page 5) provides for a three-year renewal term beginning July 1, 1994. There will be one more annual renewal for the period July 1, 1993 to June 30, 1994.

Section 4 (page 5) amends the renewal date to coincide with the three-year term.

Section 5 (page 5) provides that the continuing education requirement will not have to be met until the second renewal if, for a one-year renewal, the license/certificate expires less than six months after issuance; and, for a three-year renewal, less than 18 months after issuance.

(2) INVESTIGATIONS AND DISCIPLINARY ACTIONS

Subsection (d) of Section 6 on page 8 has been added to establish or clarify that investigations and disciplinary actions apply to any appraisals performed by licensed and certified appraisers whether or not the appraisal involves a federally related transaction. The Appraisal Subcommittee, which monitors state programs for compliance with federal law, wants this provision in

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Attachment 2

state laws. Their position was stated in testimony before Congress on the implementation and effectiveness of Title XI (federal law).

(3) OTHER CHANGES

Section 1(a)(8) (page 1). In order for an appraiser to obtain continuing education credit for a course, the course must be approved by the board. The sponsor submits the course for approval and pays a \$50 fee for review of a new course and \$15 for renewal of a course. The addition in paragraph (8) will allow an appraiser to submit a course for approval for a fee not to exceed \$10. This will be helpful to an appraiser who takes a course which the sponsor does not choose to submit for approval but which meets criteria for approval.

Section 2(f) (page 4). The amendment is clean-up language.

(4) AMENDMENTS TO SB 270 REQUESTED BY APPRAISAL BOARD

**Please refer now to the amendment pertaining to transitional licenses, which was distributed.**

This amendment was not considered by the Senate. At their meeting on February 26, at the request of interested persons, the board reviewed the matter of transitional licenses and asked the staff to request this amendment.

To give you some background, there are three classifications of appraisers: certified general, certified residential, and licensed. The certified classifications have higher qualifications than the licensed.

An applicant for a license must have 75 classroom hours and 2,000 hours of experience, and must pass the examination. Our law was amended in 1991 to provide for issuance of transitional licenses. The change was based on an advisory from the Appraisal Subcommittee, which monitors state programs for compliance with federal law. The ASC supported transitional licenses if they were valid for a strictly limited period of time and if their issuance is restricted to the early years of a state's licensing program.

All transitional licenses had to be issued before January 1, 1992 and could not be renewed beyond June 30, 1993. Approximately 79 transitional licenses were issued. These appraisers had 75 classroom hours and passed the exam but did not have 2,000 hours of experience. This gave them until June 30, 1993 to complete their experience and have their transitional license converted to a license.



SB 270, page 3

There are approximately 30 transitional licenses (out of the original 79) which have not been converted to licenses.

The amendment would allow these 30 transitional licenses to be renewed for one more year -- expiring June 30, 1994.

In order for the amendment to take effect in time for transitional licenses to be renewed on their May 31, 1993 renewal date, we ask that you also amend SB 270 to be effective upon publication in the Kansas Register.

#### (4) TECHNICAL AMENDMENTS

As introduced, SB 269 provided for separation of the board from the commission. All references to "commission" in the act were changed to "board."

SB 270 contained other changes requested by the board. It was our intent that, if SB 269 did not pass or was vetoed, we would still have the 3-year renewal term, etc., provided by SB 270.

The Senate Committee amended SB 270 to include the amendments in SB 269. References in SB 270 to "commission" were changed to "board." In a conversation with staff after the committee hearing and action, it was our understanding that the amendments were probably backwards and could be addressed on the House side. We therefore ask that you consider amending SB 270 to change references to "board" back to "commission" and that SB 269 be amended to include the provisions of SB 270.

We should also point out in the committee amendments to SB 270, some references to "commission" were apparently overlooked:

Lines 38 and 42 on page 4  
Lines 19 and 21 on page 5  
Line 42 on page 6

A typographical error appears on line 28, page 6 of SB 270. This was in the original bill.

We respectfully request that you amend SB 270 to include the amendment pertaining to transitional licenses, any needed technical amendments, and to become effective upon publication in the Kansas Register.

Thank you for your consideration.

March 16, 1993

Amendment pertaining to Transitional Licenses

Requested by the Kansas Real Estate Appraisal Board

SB 270 - beginning on line 30, page 4

SB 269 - beginning on line 8, page 8

A transitional license shall expire on the next June 30 after issuance and shall not be renewed more than ~~one-time~~ two times. The license shall include a statement that it is a transitional license. ~~and that it may be renewed one time only.~~ If the transitional license is renewed a second time, the renewed license shall include a statement that it may not be renewed and extended beyond the expiration date appearing on the license.

In order for the amendment to take effect in time for renewal of transitional licenses, please amend SB 270 to be effective upon publication in Kansas Register.



Executive Offices:  
3644 S. W. Burlingame Road  
Topeka, Kansas 66611  
Telephone 913/267-3610

TO: THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS  
COMMITTEE

FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS

DATE: MARCH 16, 1993

SUBJECT: SB 270 KS STATE CERTIFIED AND LICENSED REAL PROPERTY  
APPRAISERS ACT

Thank you for the opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support SB 270 and to offer an amendment.

Due to the extreme difficulty individuals who would like to become a licensed appraiser have in getting 2,000 hours of experience, we request that this bill be amended to provide that the number of hours of experience needed be reduced to 500 hours.

The 2,000 hours requirement means, at a minimum, 2 years of work doing nothing but appraisals. This is an almost insurmountable task for persons seeking to enter this profession. Persons who are trying to become licensed appraisers are attending our classes and asking us how to get the 2,000 hours of experience. They relate stories of the trouble they have had finding anyone to "intern" or "apprentice" with, in order to achieve the requirement. They are told by licensed and certified appraisers either that there is not enough business to go around or that they do not want the liability of having an unlicensed or uncertified appraiser working with them. In the event that they have found an appraiser who will take them in, it is often with an agreement that little or no compensation would be given. This puts them in a near servitude situation.

If an individual is starting from scratch in terms of the acquiring the hours they are caught in an additional "Catch 22", because many people who are willing to take these trainees in, prefer that they have passed their examination prior to beginning. The statute provides that a license cannot be issued unless the applicant took the exam within two years of submitting the application. This means that they would have to begin working with an appraiser immediately after taking the exam and, essentially, do nothing else for two years so the application could be filed at the end of the two years. Given the "servitude" arrangement described above, the individual needs to be independently wealthy or have someone supporting them because they would not have time to keep down another job.

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We requested the Appraisal Board to amend their regulations to the 500 requirement, but they have declined to do so. They talk about some sort of "training" category, but have not yet developed it, but are waiting for some sort of program from the Federal Appraisal Committee. Meanwhile the persons who have are already licensed and certified are enjoying a "closed shop" monopoly.

The Oklahoma Legislature passed legislation last year eliminating the experience requirement altogether. We do not think that is necessary or prudent. We do not ask for this reduction lightly. KAR has always stood for professionalism in all aspects of the real estate industry. However, we feel this change is reasonable and necessary in order to permit a steady flow of individuals into the appraiser profession. A steady flow helps to insure there are plenty of appraisers when the market needs them and helps to keep costs down for the consumer. Supply and demand principles say that monopolies serve to keep prices elevated. Consumers are the ones who will pay if Kansas does not remove the statutory monopoly which exists for this industry.

I have attached a balloon for your convenience. Thank you for your assistance.

FIRREA  
(FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT)  
1989

FFIEAC  
(FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL)

APPRAISAL SUBCOMMITTEE  
OF FFIEC

THE APPRAISAL FOUNDATION

APPRAISAL QUALIFICATIONS BOARD

KANSAS LEGISLATION  
K.S.A. 58-4102 et seq, 1990

REGULATIONS OF THE KANSAS REAL ESTATE APPRAISAL BOARD  
K.A.R. 117-4-2  
EFFECTIVE JUNE 10, 1991

FDIC IMPROVEMENT ACT OF 1991

1 approved by the ~~director of the commission~~ *chairperson of the*  
2 *board* or by a person or persons designated by the ~~director~~  
3 *chairperson*.

4 (i) All amounts collected for federal registry fees shall be credited  
5 totally to the federal registry clearing fund, which is hereby created  
6 in the state treasury. All disbursements from the federal registry  
7 clearing fund shall be made upon warrants of the director of accounts  
8 and reports issued pursuant to vouchers approved by the ~~director~~  
9 *of the commission chairperson of the board* or by a person or  
10 persons designated by the ~~director~~ *chairperson*. Amounts credited  
11 to the federal registry clearing fund under this section shall not be  
12 subject to any limitations imposed by any appropriations act of the  
13 legislature.

14 Sec. 2. K.S.A. 1992 Supp. 58-4109 is hereby amended to read  
15 as follows: 58-4109. (a) There is hereby established the following  
16 classes of real property appraisers:

- 17 (1) State licensed real property appraiser classification;  
18 (2) certified general real property appraiser classification; and  
19 (3) certified residential real property appraiser classification.

20 (b) The board may establish, by rules and regulations, such other  
21 classifications as permitted by federal law.

22 (c) The board shall adopt rules and regulations, consistent with  
23 requirements and criteria adopted pursuant to federal law, to:

- 24 (1) Define each classification;  
25 (2) establish education and experience requirements for each  
26 classification;  
27 (3) establish examination specifications for each classification; and  
28 (4) establish continuing education requirements for renewal of  
29 each classification.

30 (d) In adopting rules and regulations pursuant to subsection (c),  
31 the board shall determine the education, experience and examination  
32 requirements necessary to provide appropriate assurance that an  
33 applicant for certification or licensure is competent to perform ap-  
34 praisals within the scope of practice of the appraisal work authorized  
35 for the classification applied for and that persons renewing their  
36 certificates or licenses have current knowledge of real property ap-  
37 praisal theory, practices and techniques which will provide a high  
38 degree of service and protection to those members of the public  
39 with whom they deal. In making such determination, the board shall  
40 take into consideration the following:

- 41 (1) Appropriate knowledge of technical terms commonly used in  
42 or related to real estate appraising, appraisal report writing and  
43 economic concepts applicable to real estate;

however, the board shall not establish an experience requirement for the state licensed real property appraiser classification in excess of 500 hours;

STATE OF KANSAS

GWEN WELSHIMER  
REPRESENTATIVE, EIGHTY-EIGHTH DISTRICT  
SEDGWICK COUNTY  
6103 CASTLE  
WICHITA, KANSAS 67218  
316-685-1930  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: TAXATION  
INSURANCE  
LOCAL GOVERNMENT  
ADMINISTRATIVE RULES & REGULATIONS

MARCH 16, 1993

*Gwen Welshimer*

TO: REP. MARVIN SMITH  
CHAIRMAN, HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE

FROM: REP. GWEN WELSHIMER

SUBJECT: TESTIMONY - SB270

MY CONCERN WITH SB270 IS THE LANGUAGE WHICH CHANGES THE TIME FOR APPRAISER LICENSE RENEWAL FROM ONE YEAR TO THREE. I AM HERE TO ASK YOU TO AMEND SB 270 BY REINSTATING THE WORDS ONE YEAR ON PAGE ONE, LINE 40 OF THE BILL, AND DELETING ON PAGE 5, LINES 7, 8, 9, 10, 11, AND 12. THIS AMENDMENT WOULD REINSTATE ANNUAL LICENSE RENEWAL WITH TEN HOURS OF CONTINUING EDUCATION PER YEAR.

CURRENTLY, THE RENEWAL FEE IS \$200, AND A THREE-YEAR RENEWAL WOULD COST A LICENSEE \$600. FEES WILL MOST LIKELY NEED TO INCREASE FROM THE \$200 TO THE STATUTORY LIMIT OF \$300 PER YEAR BECAUSE THE APPRAISAL BOARD PLANS TO ESTABLISH IT'S OWN OFFICE AND PERSONNEL. THREE YEARS FROM NOW, A LICENSE RENEWAL FEE COULD BE \$900, AND I THINK THIS IS PROHIBITIVE. MANY APPRAISERS DON'T MAKE THAT MUCH IN A WEEK. NEW LICENSEES WHO ARE FORTUNATE ENOUGH TO FIND SOMEONE TO WORK UNDER TO GAIN THEIR 2,000 HOURS EXPERIENCE WILL PROBABLY NOT BE PAID AT ALL.

LICENSE RENEWAL ALSO INCLUDES THE COST OF CONTINUING EDUCATION. LICENSEES ARE FREQUENTLY HESITANT TO INTERRUPT THEIR WORK DAY SCHEDULES TO TAKE COURSES UNTIL THE LAST MINUTE. AS A RESULT, THEIR CHOICES WILL BE THIRTY-HOUR COURSES PROVIDED BY APPRAISAL TRADE ASSOCIATIONS. SOME OF THESE COURSES HAVE \$1,500 ENROLLMENT FEES IN ADDITION TO AIR FARE TO ANOTHER STATE, HOTELS, MEALS, AND A WEEK AWAY FROM THE BUSINESS AT HAND. A THREE-YEAR RENEWAL MAY VERY WELL COST A LICENSEE A MINIMUM OF \$3,000.

THERE ARE NOW LOCAL COURSES APPROVED FOR TEN HOURS TO SATISFY THE ONE-YEAR RENEWAL PROVIDING NEW AND INNOVATIVE INFORMATION FOR APPRAISERS. IF A LICENSEE NEEDS THE 30-HOUR COURSES, THEY WILL ALWAYS BE THERE. THE TEN-HOUR COURSES AND SEMINARS WILL NOT DEVELOP TO MEET THEIR NEEDS DUE TO LOW DEMAND.

AS THE COST BECOMES PROHIBITIVE, ONLY THOSE THAT ARE WELL ESTABLISHED WILL CONTINUE TO BE LICENSED. A SHORTAGE OF APPRAISERS WILL OCCUR, AND THE PRICE FOR THE SERVICE TO THE PUBLIC WILL INCREASE.

*3-16-93  
House Gov't Org & Elections  
Attachment 4*

#5  
House Governmental Organization and Elections Committee  
March 16, 1993  
Senate Bill 269

Mr. Chairman and members of the committee:

My name is Gene Yockers, and I am the Director of the Kansas Real Estate Commission. The Real Estate Appraisal Board is attached to the commission for administrative purposes, and I am here on behalf of the board and the commission.

The regulation of appraisers was mandated by federal law, known as Title XI. When our state law was passed by the 1990 Legislature, no one had a very good estimate as to the number of appraisers who would become licensed or certified. The numbers exceed our expectations.

Now that we are in our third year of the program--the board having been appointed in July 1990--we believe that the program justifies and can support an independent agency.

Senate Bill 269 provides for the separation of the board from the commission. We believe the fiscal impact would be minimal. Most of the costs in administering the appraiser program will be the same whether handled through the commission staff or by a new appraiser board staff. For instance, if the separation occurs, the board will hire an administrator. If it does not occur, the commission will request an administrative position to be assigned to the appraiser function.

A technical amendment needs to be made to line 13 on page 6. Changing "director" to "chairperson" was apparently overlooked in the Senate committee amendments.

As noted in my testimony on SB 270, it may be appropriate to amend the provisions of SB 270 into SB 269.

Members of the board and commission join me in urging you to recommend the bill for passage.

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Deane Hoult Org + Elections  
Attachment 5



House Governmental Organization and Elections Committee  
March 16, 1993  
Senate Bill 271

Mr. Chair and members of the committee:

My name is Gene Yockers, and I am the Director of the Kansas Real Estate Commission. Senate Bill 271 amends the real estate brokers' and salespersons' license act. We are also requesting that you amend the bill, and copies of the amendments have been distributed along with my testimony.

Section 1 (page 1). Subsection (g) has been added to define commercial or investment real estate property. The definition is necessary because of a change in Section 5.

Section 2 (page 3). The present law allows the commission to waive the pre-license and examination requirement for licensees of other states who have equivalent requirements and with which we have reciprocity agreements.

We do not have reciprocity agreements with Colorado and Texas, for example, because their pre-license education requirements are much higher than Kansas. This means that someone who has held a salesperson's license in Colorado for any number of years has to take a 30 hour principles of real estate course and pass our examination before they can obtain a Kansas license. Also, "reciprocity" applies only to nonresidents. Someone who was licensed in another state for many years and moves to Kansas cannot obtain a Kansas license without meeting the same requirements as someone who has never had a license.

The amendments allow the commission to waive the requirements if, in the judgment of the commission, the applicant met equivalent requirements in another state. The waiver applies only to pre-license requirements. Licensees must meet all other requirements of the act, including continuing education.

Most nonresidents will still be licensed through reciprocity agreements. However, the amendments will give the commission some flexibility in licensing individuals who have met equivalent, or in most cases, higher qualifications than the Kansas act requires.

Section 3 (page 5). The amendment provides for licensure of members of a limited liability company, which acts as a real estate brokerage business, in the same manner as that provided for corporations and partnerships.

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House Gov't Org + Elections  
Attachment 6

Section 4 (page 6).

Section 4 deals with educational

requirements.

An understanding of the background for **subsection (f)** is important. In 1980, a post-education requirement was passed which provided that licensees would have to have 30 hours in December 1981; 30 more hours would be due the second renewal; and for brokers, 30 more hours on the third renewal. Any hours taken during the past seven years could be filed for credit. Licensees immediately began filing hours to take advantage of the seven-year period.

Before the first hours were due in December 1981, the law was declared unconstitutional. The 1982 Legislature passed a continuing education requirement (hours due every renewal period) as opposed to a post-license requirement. Licensees were allowed to file hours any time prior to January 1, 1983 and keep those hours as a pool. There was no limit placed on the number of hours, and many licensees filed hours far in excess of the maximum 90 that would ever have been required under the old law.

Now, ten years later, approximately 2,000 licensees still have pooled hours from which they can meet their "continuing" education requirement of 12 hours every two years.

The amendment provides that on July 1, 1993, the commission would remove any hours in excess of 12 hours. This would leave each affected licensee with 12 hours for the next two-year renewal. This would give the licensee two years before any additional education would have to be taken.

**Subsection (g)** provides that courses which receive approval of the commission must be offered by one of the entities listed:

- (1) an institution which is accredited by the north central association of colleges and secondary schools accrediting agency;
- (2) an area vocational or vocational-technical school
- (3) a proprietary school
- (4) a state agency, or
- (5) a similar institution in another state

**Please refer to the page with the amendments, and note Amendment A.** This amendment is to make an exception for courses reviewed pursuant to **subsection (j)**.

Under current law, a licensee cannot receive credit for a course unless it has been submitted by the course provider and approved by the commission. **Amendment B** will allow an individual licensee to submit a course and receive credit if it meets the objectives of continuing education.

**Subsection (i)** provides for approval of nontraditional courses.

Section 5 (page 8). The amendment gives the commission the authority to conduct and pay expenses for instructor development workshops.

Section 6 (page 9). Section 6 is the "prohibited acts" section. The amendments in paragraphs (3) and (28) are clean-up language.

The major amendments involve agency issues. Agency agreements must be in writing. The amendment to paragraph (13) on page 10 permits verbal listings for commercial or investment property and for property owned by any agency of the federal government. Paragraphs (14), (15) and (16) eliminate agency disclosure requirements when a licensee handles a lease.

**Now please refer to the page with the amendments, and note Amendment C.** Paragraph (16) gives the disclosure requirements if a licensee represents both the buyer and seller. The licensee is to immediately disclose in writing that the licensee is acting as agent for buyer and seller and the compensation arrangement, and the written disclosure is to be signed by both the buyer and the seller.

Disclosed dual agency most often occurs with large companies who may sell their own listings to buyers whom they also represent as clients. They take two very important actions: (1) when they list the seller's property, they explain the possibility of dual agency, and (2) when they obtain an agency agreement with a buyer, they explain the possibility of dual agency.

**Amendment C** adds this language: "If the exclusive right to sell agreement and the buyer's agency agreement include the disclosure of the possibility of dual agency, the written disclosure, for each specific transaction, shall be signed by the buyer no later than the first showing of the property and by the seller no later than the presentation of the offer to purchase."

An example. Let's say a buyer has signed an agency agreement which sets out the possibility of dual agency and that buyer is interested in a property the licensee has listed. The licensee will then give the written disclosure of dual agency to the buyer and have the buyer sign it. The seller may not be at home--or even in town--but the licensee may then go ahead and show the property. The written disclosure to the seller must then be made no later than the presentation of the offer if the buyer decides to submit an offer.

**Amendment D** simply allows the commission to provide suggested forms of agency disclosure and agency agreements.

Section 7 (page 14). Changes in fees.

	<u>Current Statutory Maximum</u>	<u>Current Fee (by reg)</u>	<u>New Statutory Maximum</u>
Salesperson's application	\$15	\$15	\$25
Broker's application	15	15	50
*Salesperson's license	30	30	50
*Broker's license	50	50	75

\*on annual basis

Current law provides for \$50 fee for new course approval; \$50 fee for new instructor approval; \$15 for renewed course approval, and \$15 for renewed instructor approval. The amendment increases the maximum fee for new course approval to \$75 and deletes fees for instructor approval.

Paragraph (14) provides for a fee if a licensee submits a course for approval as discussed under Section 4.

March 16, 1993  
Amendments to SB 271  
Requested by the Kansas Real Estate Commission

**Amendment A** - Beginning on Line 38, page 7

(g) Except for courses reviewed pursuant to subsection (j), on and after January 1, 1994, courses of instruction required by this section shall be courses approved by the commission and offered by:

**Amendment B** - Beginning on Line 22, page 8

(j) Courses of instruction required by this section shall be courses approved by the commission either before or after their completion. The commission may give credit toward the 12 hours of additional instruction required by subsection (e) to any licensee who submits an application for course review obtained from the commission and pays the fee prescribed by K.S.A. 58-3063 and amendments thereto if, in the judgment of the commission, the course meets the objectives of continuing education.

**Amendment C** - Beginning on Line 5, page 11

(16) If the licensee represents both the buyer and seller ~~or both the lessor and lessee~~, the licensee shall immediately disclose in writing: (A) That the licensee is acting as agent for both buyer and seller ~~or for both lessor and lessee~~; and (B) the compensation arrangement. The disclosure shall be signed by both the buyer and the seller ~~or both the lessor and lessee~~. If the exclusive right to sell agreement and the buyer's agency agreement include the disclosure of the possibility of dual agency, the written disclosure, for each specific transaction, shall be signed by the buyer no later than the first showing of the property and by the seller no later than the presentation of the offer to purchase. In addition, the disclosure of the agency relationship between all licensees involved and the principals shall be included in any contract for sale ~~or lease~~ and in any lot reservation agreement.

**Amendment D** - Beginning on Line 34, page 13

(c) The commission, ~~by rules and regulations~~, may provide suggested forms of agency disclosure and agency agreements and, ~~by rules and regulations~~, provide such other prohibitions, limitations and conditions relating thereto as the commission may prescribe.