

Approved: 3-23-93
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 22, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Delbert Gross

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:

Carol Williams, Kansas Commission on Governmental Standards and Conduct

Others attending: See attached list

Hearing on:

SB 47 - lobbying; person failing to pay civil penalties prohibited from registering as lobbyists.

Carol Williams, Kansas Commission on Governmental Standards and Conduct, testified in support of SB 47, stating that anyone who had not paid penalties assessed against him or her would be prohibited from registering as a lobbyist for a new year (Attachment 1).

HB 2531 - Kansas commission on governmental standards and conduct, increasing candidate filing fees and lobbying registration fees.

Carol Williams, Kansas Commission on Governmental Standards and Conduct, gave testimony in support of HB 2531 which would increase candidate filing fees and lobbying registration fees to help fund additional positions (Attachment 2).

SB 326 - state corporation commission, appointment of officers.

Tom Day, Kansas Corporation Commission, explained SB 326 as placing six positions in the Kansas Corporation - Director of Division of Utilities, Director of Division of Conservation, Director of Division of Transportation, Director of Public Affairs and Consumer Protection, General Counsel, and Executive Director - in the unclassified service of Kansas civil service. This bill would not amend current law.

Action on:

Jean Duncan, Administrative Office for Kansas Real Estate Commission, explained amendments suggested in the balloons for SB 269 (Attachment 3), SB 270 (Attachment 7) and (Attachment 8), and SB 271 (Attachment 9).

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

Representative Haulmark moved acceptance of amendments (Attachment 3) for SB 269. Representative Gilbert seconded. Motion carried.

Representative Gilbert made a motion to pass SB 269 favorably. Representative Wells seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on March 22, 1993.

Testimony from Jack Shelton (Attachment 4), Courtley Jackson (Attachment 5), and Coalition of Kansas Appraisers (Attachment 6) in opposition to cutting experience hours of appraisers from 2,000 to 500 was handed out.

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

Representative Haulmark moved adoption of amendments in balloon (Attachment 7). Representative Wells seconded. Motion carried.

Representative McKechnie made a motion to accept amendments in balloon (Attachment 8) to cut hours of experience for appraisers from 2,000 to 500. Representative Macy seconded.

Representative Hendrix made a substitute motion to allow an appraiser after taking required classes and sitting for the exam to obtain work but requiring an appraiser to have 500 hours of experience before renewal of his license. Representative O'Connor seconded. After discussion, motion carried.

Representative McKechnie moved favorable passage as amended on SB 270. Representative Gilbert seconded.

Representative McKechnie made a substitute motion to amend the four sections of SB 270 identical with those in SB 269 as amended by such bill. Representative Haulmark seconded. Substitute motion carried.

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

Representative Dawson moved to accept the amendments in balloon (Attachment 9) for SB 271. Representative Ballard seconded. Motion carried.

Representative Haulmark made a motion to pass SB 271 favorably as amended. Representative Wells seconded. Motion carried.

Representative Cox moved approval of the minutes for March 19, 1993 as submitted. Representative Dillon seconded. Motion carried.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for March 23, 1993.

GUEST LIST

COMMITTEE: House Governmental Organization & ElectionsDATE:

3-22-92

[illegible]

**KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT****Testimony before House Governmental Organization & Elections
on Senate Bill 47**

By Carol Williams, Kansas Commission on Governmental Standards & Conduct

Senate Bill 47 which is before you this morning amends a provision of the lobbying statutes, K.S.A. 1992 Supp. 46-265. The Commission recommends that a new subsection be added to this section to prohibit a lobbyist from registering as a lobbyist for a new year if such lobbyist has any outstanding civil penalties assessed against him or her.

With the passage of lobbying legislation in July of 1991, lobbyists, for the first time, were required to file periodic reports. Until this time a lobbyist filed a report only if he or she expended more than \$100 in reportable lobbying expenditures per calendar month. Lobbyists are now required to file six reports during the year, whether they expend \$100 in a reporting period or not.

Since reports are now due from all registered lobbyists, the Commission sends certified failure to file notices, as required by law, to those lobbyist who have failed to file their reports in a timely manner. When the certified card has been signed for by the lobbyist or his or her agent, the lobbyist has five days from that date to file the report before a civil penalty is assessed. The civil penalty is \$10 per day for each day the report remains unfiled to a maximum \$300 civil penalty. In 1992, 51 lobbyists had civil penalties assessed against them from their failure to file a lobbyist report in a timely manner. Of those 51, six lobbyist have not paid the civil penalties assessed against them. The total penalties assessed against these six lobbyists is \$1,140. Many of these penalties were assessed in February, March and April of 1992. This office has asked the Attorney General to bring an action to recover these civil penalties.

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To date, these penalties have yet to be paid.

There is a similar provision in the Campaign Finance Act, K.S.A. 25-4181, which prohibits an individual from being eligible to become a candidate for state or local office if he or she has failed to pay any civil fines or failed to file any report required by the Act. The Commission feels that a similar provision should be enacted in the area of lobbying.

The Commission urges your support of Senate Bill 47.



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Testimony before House Governmental Organization and Elections on House Bill 2531

By Carol Williams, Kansas Commission on Governmental Standards & Conduct

House Bill 2531, which is before you this morning, amends a section in the Commission's general provisions (K.S.A. 1992 Supp. 25-4119f) in the Campaign Finance Act (K.S.A. 1992 Supp. 25-4145) and the Governmental Ethics Laws (K.S.A. 46-265) each section deals with the agency's fees. This bill was introduced by the Committee on Appropriations at the request of the Kansas Commission on Governmental Standards and Conduct.

As background information, the Commission became a fee agency on July 1, 1991. The legislature established a fee fund for the Commission to provide supplemental funding to provide additional staff and other operating expenditures necessitated by legislation which brought all county and first class city candidates under the purview of the Campaign Finance Act. In FY 1993, the agency's fee fund is being utilized for three special projects positions to review the 2,204 receipts and expenditures reports filed by local candidates. The Commission currently has 1,684 county and first class city candidates filing under the Act. This is in addition to the state level candidates which have been under the Commission's jurisdiction since 1974.

To fulfill its legislative mandate concerning local candidates, the Commission considers it imperative that it has adequate staff to process, review and audit candidates for local office. This is an impossible task with the current full time staff of six. The current staff is responsible for processing state level campaign finance, lobbying and conflict of interest report filings, as well as reviewing the thousands of documents filed. Audits are conducted when necessary.

Since fee fund revenues are not sufficient to provide for a continuation of three special projects positions, the Commission recommends that a new fee fund structure be established for the agency. Attached is a

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chart prepared by Commission staff which outlines the proposed increase in fees for candidates, lobbyists and political action committees over the next four years.

The proposed increase in existing fees would provide an additional \$50,750 for the agency's fee fund in FY 1994. This increase in addition to current projected fees would be sufficient to adequately fund three special projects positions as well as the operating expenditures needed for the increased responsibilities in the local campaign finance area.

The Commission urges your passage of House Bill 2531.

	FY 1994					7/1/93–6/30/94					FY 1995					7/1/94–6/30/95					FY 1996					7/1/95–6/30/96					FY 1997					7/1/96–6/30/97					FY 1998					7/1/97–6/30/98				
	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total	Est No.	Curr Fee	Prop Fee	Curr Total	Prop Total															
STATE CANDIDATES:																																																		
Governor & Lt. Governor	9	\$250	\$400	\$2,250	\$3,600																																													
Secretary of State	6	250	300	1,500	1,800																																													
Attorney General	6	250	300	1,500	1,800																																													
State Treasurer	4	250	300	1,000	1,200																																													
Insurance Commissioner	4	250	300	1,000	1,200																																													
Senator											100	\$20	\$30	\$2,000	\$3,000																																			
Representative	275	20	30	5,500	8,250						300	20	30	6,000	9,000							275	20	30	5,500	8,250																								
Board of Education	8	20	30	160	240						8	20	30	160	240							8	20	30	160	240																								
Judge:																																																		
District	46	10	30	460	1,380						60	10	30	600	1,800							46	10	30	460	1,380																								
Magistrate	60	10	30	600	1,800						75	10	30	750	2,250							60	10	30	600	1,800																								
District Attorneys											8	20	30	160	240																																			
Subtotal – State	418			\$13,970	\$21,270						551			\$9,670	\$16,530							418			\$13,970	\$21,270																								
COUNTY OFFICES:																																																		
County Offices	310	\$20	\$30	\$6,200	\$9,300						1,400	\$20	\$30	\$28,000	\$42,000							310	\$20	\$30	\$6,200	\$9,300																								
Subtotal – County	310			\$6,200	\$9,300						1,400			\$28,000	\$42,000							310			\$6,200	\$9,300																								
CITY OFFICES:																																																		
First Class City Offices	22	\$10	\$30	\$220	\$660	136	\$10	\$30	\$1,360	\$4,080	22	\$10	\$30	\$220	\$660	350	\$10	\$30	\$3,500	\$10,500	22	\$10	\$30	\$220	\$660																									
Electric Public Utilities						5	20	30	100	150						5	20	30	\$100	\$150																														
School Board—Wichita Only						5	10	30	50	150						5	10	30	50	150																														
Subtotal – City	22			\$220	\$660	146			\$1,510	\$4,380	146			\$220	\$660	360			\$3,650	\$10,800	22			\$220	\$660																									
TOTAL – CANDIDATES	750			\$20,390	\$31,230	146			\$1,510	\$4,380	2,097			\$37,890	\$59,190	360			\$3,650	\$10,800	750			\$20,390	\$31,230																									

FY 1994					FY 1995					FY 1996					FY 1997					FY 1998				
7/1/93–6/30/94					7/1/94–6/30/95					7/1/95–6/30/96					7/1/96–6/30/97					7/1/97–6/30/98				
Est	Curr	Prop	Curr	Prop	Est	Curr	Prop	Curr	Prop	Est	Curr	Prop	Curr	Prop	Est	Curr	Prop	Curr	Prop	Est	Curr	Prop	Curr	Prop
No.	Fee	Fee	Total	Total	No.	Fee	Fee	Total	Total	No.	Fee	Fee	Total	Total	No.	Fee	Fee	Total	Total	No.	Fee	Fee	Total	Total

PARTY COMMITTEES: 192 Party Committees do not pay a registration fee. However, the committees are subject to Campaign Finance statutes.

POLITICAL ACTION COMMITTEES:

Contributions under \$500	164	\$10	\$15	\$1,640	\$900 *	164	\$10	\$15	\$1,640	\$900 *	164	\$10	\$15	\$1,640	\$900 *	164	\$10	\$15	\$1,640	\$900 *	164	\$10	\$15	\$1,640	\$900 *
Contributions of \$501–\$2500	0		50		5,200 *	0		50		5,200 *	0		50		5,200 *	0		50		5,200 *	0		50		5,200 *
Contributions over \$2501	77	100	150	7,700	11,550	77	100	150	7,700	11,550	77	100	150	7,700	11,550	77	100	150	7,700	11,550	77	100	150	7,700	11,550
Subtotal – PACs	241			\$9,340	\$17,650	241			\$9,340	\$17,650	241			\$9,340	\$17,650	241			\$9,340	\$17,650	241			\$9,340	\$17,650

* Estimated number of PACs spending between \$501 and \$2500 is 104. Estimated number of PACs spending under \$500 is 60.

TOTAL – PACs	241			\$9,340	\$17,650	241			\$9,340	\$17,650	241			\$9,340	\$17,650	241			\$9,340	\$17,650	241			\$9,340	\$17,650
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LOBBYING REGISTRATIONS:

Expenditures under \$1000	785	\$15	\$50	\$11,775	\$39,250	785	\$15	\$50	\$11,775	\$39,250	785	\$15	\$50	\$11,775	\$39,250	785	\$15	\$50	\$11,775	\$39,250	785	\$15	\$50	\$11,775	\$39,250
Expenditures over \$1001	125	125	150	15,625	18,750	125	125	150	15,625	18,750	125	125	150	15,625	18,750	125	125	150	15,625	18,750	125	125	150	15,625	18,750
Lobbying Firm Employee	20	250	300	5,000	6,000	20	250	300	5,000	6,000	20	250	300	5,000	6,000	20	250	300	5,000	6,000	20	250	300	5,000	6,000
TOTAL – LOBBYIST	930			\$32,400	\$64,000	930			\$32,400	\$64,000	930			\$32,400	\$64,000	930			\$32,400	\$64,000	930			\$32,400	\$64,000

GRAND TOTAL	2,113			\$62,130	\$112,880	1,509			\$43,250	\$86,030	3,460			\$79,630	\$140,840	1,723			\$45,390	\$92,450	2,113			\$62,130	\$112,880
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SENATE BILL No. 269

By Committee on Federal and State Affairs

2-9

9 AN ACT concerning the state certified and licensed real property
10 appraisers act; relating to administration thereof; amending K.S.A.
11 1992 Supp. 58-4102, 58-4104, 58-4105, 58-4107, 58-4108, 58-4109,
12 58-4112, 58-4114, 58-4115 and 58-4118 and repealing the existing
13 sections; also repealing K.S.A. 1992 Supp. 58-4106 and section 3
14 of this act.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
18 4102 is hereby amended to read as follows: 58-4102. As used in this
19 act:

20 (a) "Appraisal" or "real estate appraisal" means an analysis, opin-
21 ion or conclusion prepared by a real estate appraiser relating to the
22 nature, quality, value or utility of specified interests in, or aspects
23 of, identified real estate. An appraisal may be classified by subject
24 matter into either a valuation or an analysis. A valuation is an es-
25 timate of the value of real estate or real property. An analysis is a
26 study of real estate or real property other than estimating value.

27 (b) "Appraisal assignment" means an engagement for which an
28 appraiser is employed or retained to act, or would be perceived by
29 third parties or the public as acting, as a disinterested party in
30 rendering an unbiased analysis, opinion or conclusion relating to the
31 nature, quality, value or utility of specified interests in, or aspects
32 of, identified real estate.

33 (c) "Board" means the real estate appraisal board established pur-
34 suant to the provisions of this act.

35 ~~{d} "Commission" means the Kansas real estate commission.~~

36 ~~{e} (d) "Federal law" means title XI of the financial institutions~~
37 ~~reform, recovery and enforcement act of 1989 (12 U.S.C. 3331 et~~
38 ~~seq.) and any other federal law, and any regulations adopted pursuant~~
39 ~~thereto.~~

40 ~~{f} (e) "Federally related transaction" means any real estate-re-~~
41 ~~lated financial transaction which: (1) A federal financial institutions~~
42 ~~regulatory agency or the resolution trust corporation engages in,~~
43 ~~contracts for or regulates; and (2) requires the services of an~~

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1 appraiser.

2 {g} (f) "Real estate" means an identified parcel or tract of land,
3 including improvements, if any.

4 {h} (g) "Real estate appraisal organization" means any nationally
5 recognized organization of professional appraisers.

6 {i} (h) "Real estate-related financial transaction" means any trans-
7 action involving: (1) The sale, lease, purchase, investment in or
8 exchange of real property, including interests in property or the
9 financing thereof; (2) the refinancing of real property or interests in
10 real property; and (3) the use of real property or interests in property
11 as security for a loan or investment, including mortgage-backed
12 securities.

13 {j} (i) "Real property" means one or more defined interests, ben-
14 efits and rights inherent in the ownership of real estate.

15 {k} (j) "Specialized services" means those appraisal services which
16 do not fall within the definition of appraisal assignment. Specified
17 services may include valuation work and analysis work. Regardless
18 of the intention of the client or employer, if the appraiser would be
19 perceived by third parties or the public as acting as a disinterested
20 party in rendering an unbiased analysis, opinion or conclusion, the
21 work is classified as an appraisal assignment and not specialized
22 services.

23 {l} (k) A "state certified appraiser" means a person who develops
24 and communicates real estate appraisals and who holds a current,
25 valid certificate issued to such person under the provisions of this
26 act.

27 {m} (l) A "state licensed appraiser" means a person who develops
28 and communicates real estate appraisals and holds a current, valid
29 license issued to such person under the provisions of this act.

30 {n} (m) "Written appraisal" means a written statement used in
31 connection with a federally related transaction that is independently
32 and impartially prepared by a licensed or certified appraiser setting
33 forth an opinion of defined value of an adequately described property
34 as of a specific date, supported by presentation and analysis of rel-
35 evant market information.

36 Sec. 2. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
37 4104 is hereby amended to read as follows: 58-4104. (a) There is
38 hereby established the real estate appraisal board which shall be
39 attached to the commission for purposes of administrative
40 functions.

41 (b) The board shall consist of seven members appointed by the
42 governor. At least one member of the board shall represent the
43 general public, at least two shall represent financial institutions and

1 at least three shall be real estate appraisers. Upon expiration of the
2 terms of the first members appointed to the board and thereafter:
3 (1) No real estate appraiser member of the board shall be eligible
4 to serve unless such member is a state certified or licensed appraiser;
5 and (2) at least one appraiser member shall be a certified general
6 real property appraiser. Any member representing the general public
7 shall not be affiliated with any financial institution or in the practice
8 of real estate appraising.

9 (c) Members of the board shall serve for terms of three years
10 except that, of the members first appointed to the board, two shall
11 serve for terms of two years and two shall serve for terms of one
12 year, as designated by the governor. Upon expiration of a member's
13 term, the member shall continue to hold office until the appointment
14 and qualification of a successor. No person shall serve as a member
15 of the board for more than two consecutive terms.

16 (d) The governor may remove a member of the board for cause.

17 (e) The board shall hold meetings and hearings in the city of
18 Topeka or at such times and places as it designates, on call of the
19 chairperson or on request of two or more members.

20 (f) The members of the board shall select a chairperson from
21 among the members to preside at board meetings.

22 (g) A quorum of the board shall be four members.

23 (h) Each member of the board shall be paid compensation, sub-
24 sistence allowances, mileage and other expenses as provided in
25 K.S.A. 75-3223 and amendments thereto for attendance at any meet-
26 ing of the board or any subcommittee meeting authorized by the
27 board.

28 New Sec. 3. The real estate appraisal board shall employ a di-
29 rector, who shall keep a record of all proceedings, hearings, meet-
30 ings, communications and official acts of the board and perform such
31 other duties as the board requires. The director shall be in the
32 unclassified service under the Kansas civil service act and shall re-
33 ceive compensation fixed by the board.

34 Sec. 4. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
35 4105 is hereby amended to read as follows: 58-4105. (a) The board
36 may adopt such rules and regulations as necessary to implement,
37 administer and enforce the provisions of this act.

38 (b) The board shall:

39 (1) Approve courses of instruction to meet requirements of this
40 act and monitor approved courses;

41 (2) adopt rules and regulations prescribing policies and proce-
42 dures for obtaining board approval of courses, monitoring approved
43 courses and withdrawing board approval of courses;

1 (3) administer, or designate a testing service to administer, ex-
2 aminations required by this act;

3 (4) *receive and* approve or disapprove applications for certification
4 and licensure and renewal of certificates and licenses *and issue cer-*
5 *tificates and licenses after approval of application;*

6 (5) *maintain a registry of the names and addresses of persons*
7 *certified and licensed under this act and transmit the registry to the*
8 *appraisal subcommittee of the federal financial institutions exami-*
9 *nation council on an annual basis in accordance with federal law;*

10 (6) *maintain all records submitted to the board;*

11 (7) *collect fees prescribed pursuant to K.S.A. 1992 Supp. 58-*
12 *4107 and amendments thereto;*

13 {5} (8) review from time to time the standards for the devel-
14 opment and communication of real estate appraisals provided for in
15 this act and to adopt rules and regulations explaining and interpreting
16 the standards; and

17 {6} (9) perform such other functions and duties as necessary to
18 carry out the provisions of this act.

19 (c) *The board shall maintain an office in the city of Topeka. The*
20 *board shall employ a director, who shall keep a record of all pro-*
21 *ceedings, hearings, meetings, communications and official acts of the*
22 *board and perform such other duties as the board requires. The*
23 *director shall be in the unclassified service under the Kansas civil*
24 *service act and shall receive compensation fixed by the board. The*
25 *board may employ such other employees as necessary, ~~fix the sal-~~*
26 *aries of such employees and, who shall be in the classified service*
27 *under the Kansas civil service act. The board may make such other*
28 *expenditures as necessary to properly carry out the provisions of*
29 *this act. The board may enter into such contracts for the services*
30 *of attorneys and appraisers as necessary to administer and enforce*
31 *the provisions of this act.*

32 (d) *Actions of the board shall not be reviewable by the*
33 *commission.*

34 Sec. 5. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
35 4107 is hereby amended to read as follows: 58-4107. (a) The board
36 shall adopt rules and regulations prescribing the fees provided for
37 by this act in amounts necessary to administer and enforce this act,
38 subject to the following:

39 (1) For application for certification or licensure, a fee not to
40 exceed \$50.

41 (2) For any examination required for certification or licensure, a
42 fee in an amount equal to the actual cost of the examination and
43 administration thereof.

1 (3) For original or renewal certification or licensure, a fee not to
2 exceed \$300.

3 (4) For late renewal of a certificate or license, a late fee not to
4 exceed \$50.

5 (5) For certification to another jurisdiction that an individual is
6 certified or licensed, an amount not exceeding \$25.

7 (6) For approval of a course of instruction approved pursuant to
8 K.S.A. 1992 Supp. 58-4105 and amendments thereto, an amount not
9 to exceed \$100.

10 (7) For renewal of a course of instruction approved pursuant to
11 K.S.A. 1992 Supp. 58-4105 and amendments thereto, an amount not
12 to exceed \$25.

13 If a certificate or license is issued or renewed for a period other
14 than one year, the fee shall be prorated to the nearest whole month.

15 (b) In addition to the certificate or license issued pursuant to this
16 act, the board may offer to provide a wall certificate, which shall
17 bear no expiration date, and may charge a fee not exceeding \$50 to
18 each appraiser requesting the issuance of a wall certificate.

19 (c) The board may prescribe a fee not to exceed \$50 for regis-
20 tration of an appraiser pursuant to subsection (b) of K.S.A. 1992
21 Supp. 58-4103 and amendments thereto.

22 (d) The board may establish different classes of courses of in-
23 struction for the purpose of establishing fees pursuant to subsections
24 (a)(6) and (7) and may establish a different fee for each such class.

25 (e) In addition to the fees prescribed above, the ~~commission~~
26 ~~board~~ shall collect any registry fee required pursuant to federal law.
27 Such registry fees shall be transmitted by the ~~commission board~~
28 to the appraisal subcommittee of the federal financial institutions
29 examination council in accordance with federal law.

30 (f) Except as provided in subsection (g), the ~~commission board~~
31 shall collect all fees provided for by this act. No original or renewed
32 certificate or license shall be issued unless all appropriate fees, in-
33 cluding any federal registry fee, have been paid.

34 (g) If a testing service has been designated by the board to
35 administer the examination, each applicant shall pay the examination
36 fee to the testing service.

37 (h) The director of the ~~commission board~~ shall remit to the
38 state treasurer at least monthly all moneys, received pursuant to this
39 act. Upon receipt thereof the state treasurer shall deposit the entire
40 amount in the state treasury. Twenty percent of each such deposit,
41 other than amounts collected for federal registry fees or for civil
42 fines imposed pursuant to K.S.A. 1992 Supp. 58-4118 and amend-
43 ments thereto, shall be credited to the state general fund and the

1 balance shall be credited to the appraiser fee fund, which is hereby
2 created in the state treasury. All expenditures from such fund shall
3 be made in accordance with appropriations acts upon warrants of
4 the director of accounts and reports issued pursuant to vouchers
5 approved by the ~~director~~ *chairperson* of the ~~commission~~ *board* or
6 by a person or persons designated by the ~~director~~ *chairperson*.

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

chairperson

16 Sec. 6. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
17 4108 is hereby amended to read as follows: 58-4108. (a) Applications
18 for original certification and licensure and renewal of certificates and
19 licenses shall be made in writing to the ~~commission~~ *board* on forms
20 approved by the board and shall be accompanied by the appropriate
21 fees prescribed pursuant to K.S.A. 1992 Supp. 58-4107 and amend-
22 ments thereto.

23 (b) Applications for examination shall be made in writing to the
24 ~~commission~~ *board* on forms approved by the board and shall be
25 accompanied by the appropriate fee prescribed pursuant to K.S.A.
26 1992 Supp. 58-4107 and amendments thereto. If a testing service
27 has been designated by the board to administer the examination,
28 applications for examination shall be made in writing to the testing
29 service on forms approved by the testing service.

30 (c) At the time of filing an application for certification or licen-
31 sure, each applicant shall sign a statement agreeing to comply with
32 the standards set forth in this act and stating that the applicant
33 understands the types of misconduct for which disciplinary pro-
34 ceedings may be initiated against a state certified or licensed ap-
35 praiser, as set forth in this act.

36 Sec. 7. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
37 4109 is hereby amended to read as follows: 58-4109. (a) There is
38 hereby established the following classes of real property appraisers:

- 39 (1) State licensed real property appraiser classification;
40 (2) certified general real property appraiser classification; and
41 (3) certified residential real property appraiser classification.

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

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

3 (1) Define each classification;

4 (2) establish education and experience requirements for each
5 classification;

6 (3) establish examination specifications for each classification; and

7 (4) establish continuing education requirements for renewal of
8 each classification.

9 (d) In adopting rules and regulations pursuant to subsection (c),
10 the board shall determine the education, experience and examination
11 requirements necessary to provide appropriate assurance that an
12 applicant for certification or licensure is competent to perform ap-
13 praisals within the scope of practice of the appraisal work authorized
14 for the classification applied for and that persons renewing their
15 certificates or licenses have current knowledge of real property ap-
16 praisal theory, practices and techniques which will provide a high
17 degree of service and protection to those members of the public
18 with whom they deal. In making such determination, the board shall
19 take into consideration the following:

20 (1) Appropriate knowledge of technical terms commonly used in
21 or related to real estate appraising, appraisal report writing and
22 economic concepts applicable to real estate;

23 (2) understanding of the principles of land economics, real estate
24 appraisal processes and problems likely to be encountered in gath-
25 ering, interpreting and processing data in carrying out appraisal
26 disciplines;

27 (3) understanding of the standards for the development and com-
28 munication of real estate appraisals as provided in this act;

29 (4) knowledge of theories of depreciation, cost estimating, meth-
30 ods of capitalization and mathematics of real estate appraisal that are
31 appropriate for the classification applied for;

32 (5) knowledge of such other principles and procedures as may
33 be appropriate for the respective classifications;

34 (6) basic understanding of real estate law;

35 (7) understanding of the types of misconduct for which discipli-
36 nary proceedings may be initiated against a state certified or licensed
37 appraiser, as set forth in this act;

38 (8) the requirements of federal law; and

39 (9) such other matters as the board determines appropriate and
40 relevant.

41 (e) The application for original certification or licensure and ex-
42 amination shall specify the classification being applied for.

43 (f) In no event shall a certificate or license be issued to an in-

1 individual unless the examination required for the classification applied
2 for was passed by the applicant within the two-year period imme-
3 diately preceding the date of application.

4 (g) The board may approve applications for transitional licenses
5 received prior to December 31, 1991, if the board determines the
6 applicant has met the education and examination requirements es-
7 tablished for state licensed appraisers.

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

15 The holder of a transitional license may obtain forms from the
16 ~~commission~~ board to submit evidence of having completed the
17 experience requirements established for state licensed appraisers. If
18 the board approves issuance of a license prior to the expiration date
19 of the transitional license, the applicant shall return the transitional
20 license to the ~~commission~~ board.

21 Except as provided in this subsection, applicants for transitional
22 licenses and holders of transitional licenses are subject to all pro-
23 visions of this act and any rules and regulations adopted hereunder.

24 Sec. 8. K.S.A. 1992 Supp. 58-4112 is hereby amended to read
25 as follows: 58-4112. (a) To obtain renewal of a certificate or license,
26 the holder of a current, valid certificate or license shall make ap-
27 plication for renewal on a form provided by the ~~commission~~ board
28 and pay the fee prescribed pursuant to K.S.A. 1992 Supp. 58-4107
29 and amendments thereto to the ~~commission~~ board not earlier than
30 120 days nor later than 30 days prior to the expiration date of the
31 certificate or license then held. With the application for renewal,
32 the applicant shall present evidence in the form prescribed by the
33 board of having completed the continuing education requirements
34 for renewal specified in this act.

35 (b) If a person fails to apply for renewal prior to the date provided
36 by subsection (a), the person may obtain renewal of a certificate or
37 license if the person, not later than three months after expiration
38 of the certificate or license, satisfies all of the requirements for
39 renewal and pays the renewal and late fees prescribed pursuant to
40 K.S.A. 1992 Supp. 58-4107 and amendments thereto.

41 Sec. 9. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
42 4114 is hereby amended to read as follows: 58-4114. (a) Each state
43 certified or licensed appraiser shall advise the ~~commission~~ board

1 of the address of the appraiser's principal place of business and all
2 other addresses at which the appraiser is currently engaged in the
3 business of preparing real property appraisal reports.

4 (b) When a state certified or licensed appraiser changes a place
5 of business, the appraiser shall immediately give written notice of
6 the change to the ~~commission~~ board.

7 (c) Each state certified or licensed appraiser shall notify the ~~com-~~
8 ~~mission~~ board of the appraiser's current residence address. Resi-
9 dence addresses on file with the ~~commission~~ board are exempt
10 from disclosure as public records.

11 Sec. 10. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
12 4115 is hereby amended to read as follows: 58-4115. (a) Each cer-
13 tificate and license issued under authority of this act shall include
14 the classification for which the appraiser has qualified and shall bear
15 the signature or facsimile signature of the chairperson of the board
16 and a certificate or license number assigned by the ~~commission~~
17 board.

18 (b) Each state certified or licensed appraiser shall designate the
19 appraiser's classification on any appraisal report or in any contract
20 or other instrument used by the appraiser in conducting real property
21 appraisal activities and shall place the appraiser's certificate or license
22 number adjacent to or immediately below the classification.

23 Sec. 11. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
24 4118 is hereby amended to read as follows: 58-4118. (a) The board
25 may investigate the actions of a state certified or licensed appraiser
26 and may revoke or suspend the certificate or license of the appraiser,
27 or censure the appraiser, for any of the following acts or omissions:

28 (1) Procuring or attempting to procure a certificate or license
29 pursuant to this act by knowingly making a false statement, sub-
30 mitting false information, refusing to provide complete information
31 in response to a question in an application for certification or licen-
32 sure or any form of fraud or misrepresentation;

33 (2) failing to meet the minimum qualifications established by this
34 act;

35 (3) paying money, other than provided for by this act, to any
36 member or employee of the board ~~or commission~~ to procure a
37 certificate or license under this act;

38 (4) a plea of guilty or nolo contendere to, or conviction of: (A)
39 Forgery, embezzlement, obtaining money under false pretenses, lar-
40 ceny, extortion, conspiracy to defraud or any other similar offense;

41 (B) a crime involving moral turpitude; or (C) any felony charge;

42 (5) an act or omission involving dishonesty, fraud or misrepre-
43 sentation, with the intent to substantially benefit the appraiser or

1 another person or with the intent to substantially injure another
2 person;

3 (6) violation of any of the standards for the development or com-
4 munication of real estate appraisals as provided in this act;

5 (7) failure or refusal without good cause to exercise reasonable
6 diligence in developing an appraisal, preparing an appraisal report
7 or communicating an appraisal;

8 (8) negligence or incompetence in developing an appraisal, pre-
9 paring an appraisal report or communicating an appraisal;

10 (9) willfully disregarding or violating any provision of this act or
11 rules and regulations of the board for the administration and en-
12 forcement of the provisions of this act;

13 (10) accepting an appraisal assignment, described in K.S.A. 1992
14 Supp. 58-4122 and amendments thereto, when the employment itself
15 is contingent upon the appraiser reporting a predetermined estimate,
16 analysis or opinion, or when the fee to be paid is contingent upon
17 the opinion, conclusion or valuation reached, or upon the conse-
18 quences resulting from the appraisal assignment;

19 (11) violating the confidential nature of governmental records to
20 which the appraiser gained access through employment or engage-
21 ment as an appraiser by a governmental agency; or

22 (12) entry of a final civil judgment against the person on grounds
23 of fraud, misrepresentation or deceit in the making of any appraisal
24 of real property.

25 (b) In addition to or in lieu of any other administrative, civil or
26 criminal remedy provided by law, the board upon a finding that a
27 state certified or licensed appraiser has violated any provision of this
28 act or of any rules and regulations adopted hereunder, may impose
29 upon such appraiser a civil fine not exceeding \$1,000 for each vi-
30 olation. All moneys collected by the board from such fines shall be
31 remitted to the state treasurer at least monthly. Upon receipt thereof,
32 the state treasurer shall deposit the entire amount in the state treas-
33 ury and credit it to the state general fund.

34 (c) In a disciplinary proceeding based upon a civil judgment, the
35 appraiser shall be afforded an opportunity to present matters in
36 mitigation and extenuation but may not collaterally attack the civil
37 judgment.

38 (d) All administrative proceedings pursuant to this section shall
39 be conducted in accordance with the Kansas administrative procedure
40 act.

41 Sec. 12. On and after October 1, 1993, K.S.A. 1992 Supp. 58-
42 4102, 58-4104, 58-4105, 58-4106, 58-4107, 58-4108, 58-4109, 58-4112,
43 58-4114, 58-4115 and 58-4118 and section 3 of this act are hereby

- 1 repealed.
- 2 Sec. 13. This act shall take effect and be in force from and after
- 3 its publication in the statute book.

March 18, 1993

Rep. Lisa Benlon
Vice Chairman
House Governmental Organization
and Elections Meeting
House of Representative
State of Kansas

Dear Rep. Benlon:

I am writing on behalf of the Coalition of Kansas Appraisers, an organization which consists of over 570 Kansas licensed and certified appraisers. Since there are approximately 700 licensed and certified appraisers in Kansas, we represent the majority of professional appraisers in the state. Our coalition is made up of members of the Association of Independent Fee Appraisers, the Appraisal Institute, the American Society of Appraisers, and the American Society of Farm Managers and Rural Appraisers.

We are united in opposing the proposed amendment to lower the experience requirement for licensed appraisers to 500 hours. The S&L scandal, for which all taxpayers are still being billed, has shown the costly impact of the use of unqualified appraisers. Study after study, including a recent publication by the GAO, has shown that part of the costs of failed lending institutions is due to poor appraisals. Why then, we ask, would an amendment be recommended that would place licensed appraisers below the federal guideline of 2000 hours experience?

According to the testimony of Ms. Karen France, Director of Governmental Affairs KAR, "The 2,000 hours requirement means, at a minimum, 2 years of work doing nothing but appraisals." Let me point out first of all, that by working 40 hours a week, a trainee can obtain the required experience in one year (2,000 hours/40 hours= 50 weeks), not two.

There is also no requirement that the trainee complete all 2000 hours in one year, so trainees in low activity real estate markets can spread out their experience period, and work part time if they so desire to gain the 2,000 hours.

Ms. France also states that "This is an almost insurmountable task for persons seeking to enter this profession." This is simply not true. Trainees may have to travel to markets that have enough activity to add new appraisers, but there have been advertisements for

3-22-93
Source: Govt Org + Elections
Attachment #

know of four firms within 2 miles of my office that are recruiting appraisers, and I am in the process of adding one full and one part time appraiser. There are ample opportunities for people who are willing to work in areas that have active real estate markets.

As far as Ms. France's allegation that trainees are finding that "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." This is ridiculous-I have never heard of a reputable appraiser requiring such an arrangement, although I have heard of trainees offering to perform work on a part time basis between their other employment responsibilities to learn more about the profession.

There is simply no magic solution to insure that all graduates of appraisal training programs find opportunities in their market areas as soon as they graduate. Supply and demand will always rule. It appears to us that Ms. France's organization has gotten itself in a bind by overselling appraisal opportunities as some sort of "get rich quick" scheme that is not panning out. We are sure that it would be easy to find many graduates of real estate sales licensing programs who have found it difficult to find sales opportunities that have earned them a living.

The core issue we think should be addressed is, which experience requirement provides the most qualified appraisers? Which experience requirement protects the taxpayers by requiring that the appraiser has addressed more appraisal situations?

The legislation (FIRREA) establishing the certification and licensing program was set up to protect taxpayers, not serve as a full employment service for all graduates of KAR schools.

What are the likely results of reducing the experience requirement?

- 1) Appraisers licensed under guidelines lower than 2000 hours will not be permitted to perform federally related transactions. HUD has already announced their policy. As the attached letter from Mr. John J. Coonts, The Director of the Office of Insured Single Family Housing, states, appraisers who obtained their licenses with less than 2000 hours experience cannot perform HUD appraisals. We anticipate that the other federal institutions will follow suit. Their message is clear-they do not consider appraisers

with fewer than 2000 hours experience to be qualified.

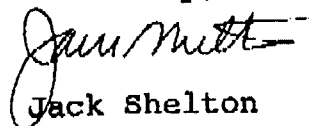
If newly licensed appraisers cannot perform federally related appraisals, they are out of the FHA, VA, FDIC, FNMA markets, which probably excludes them from 90% of the appraisals being made. Encouraging people to become appraisers with this prospect is a cruel hoax.

- 2) Kansas licensed appraisers will lose reciprocity with states that hold the higher standards.
- 3) Appraisals will be performed by less qualified appraisers. Licensed appraisers perform residential appraisals only. For most people, the purchase of a home is the largest investment that they make. Home buyers need and deserve qualified appraisers to make sure that the investment is a sound one.

As a final note, it is important to note the source of this proposed amendment. Only the KAR, which sponsors profitable licensing schools, has spoken in support of this measure. Our coalition has received support for our opposition to this proposed amendments from bankers, savings and loan executives, and the Kansas Appraisal Board. We urge you to look past the efforts of this well organized, and well financed special interest group, and make your decision regarding this amendment based upon the protection of the public good. We think when you do so, you will reject this amendment.

Thank you for your consideration. If you would like to have copies of the GAO study outlining the effects of poor appraisals on the S&L crisis, you might contact the Kansas Appraisal Board.

Sincerely,


Jack Shelton

COURTLEY JACKSON, SRA

REAL ESTATE APPRAISER & CONSULTANT

FAX MEMO

DATE March 17, 1993

TO:

COMPANY _____

FAX # (913)296-0042

ATTENTION Governmental Organizations Committee: M. Smith, E. Wells, L. Benton, R. Cox, C. Dawson, G. Haulmark, W. Hendrix, K. O'Connor, A. Scott, J. Macy, B. Ballard, R. Bowden, H. Dillon, R. Gilbert, D. Gross, S. Hochhauser, J. Long, E. McKechnie
FROM: Courtley A. Jackson, SRA

PAGES TO FOLLOW (INCLUDING THIS PAGE):

3

COMMENTS: Enclosed is a letter from the U.S. Dept. of Housing and Urban Development regarding their experience requirements for licensed appraisers (see page 2 of 2). If Kansas reduces the experience requirement to 500 hours as proposed by KAR, this will only hurt current licensed appraisers. I support SB-269 and SB-270, as passed by the Senate without the amendment to reduce experience hours.

Please contact us if all pages are not received.

*3-22-93
House Gov't Org + Elec.
Attachments 5*

517 SOUTH MARKET

• WICHITA, KANSAS 67202 •

(316) 265-7880



FEB 3 1993

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

RECEIVED

COPIES TO FILE

MAIL ROOM

MEMORANDUM FOR: All Regional Directors of Housing
All Directors, Housing Development Divisions
(Categories A and B Offices)
All Managers (Category C Offices)
All Chiefs (Category D Offices)

ATTENTION: All Chief Appraisers

FROM: John J. Coonts, Director, Office of
Insured Single Family Housing, HSI

SUBJECT: Test Period for the Revised URAR and Appraiser
Licensing and Certification Requirements Chart

Test Period for the Revised URAR

Over the last year, Fannie Mae, Freddie Mac, HUD and VA have been reviewing the effectiveness of the URAR forms that are currently being used for the appraisal of single family properties. As a result of this review, a number of changes have been recommended to the URAR forms to increase their effectiveness and to assure their compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). These recommendations have been incorporated into a revised URAR form (Fannie Mae Form 1004-Test Form dated 12/92) and a revised Statement of Limiting Conditions and Appraiser's Certification (Fannie Mae Form 1004B-Test Form dated 12/92), copies of which are attached to this memorandum, to test the effectiveness of the recommended changes. The agencies mentioned above, including HUD, have agreed to participate in this test. Accordingly, effective immediately, HUD will allow lenders and appraisers, on a voluntary basis, to use the revised URAR and Appraiser Certification forms. This memorandum is to advise you that you may be seeing these revised forms in some cases instead of the standard forms now used.

5-2

In addition, we are interested in your comments about the revised forms. A copy of Fannie Mae's release describing the changes made to these test forms is also attached. Please review Fannie Mae's release and the test forms and send any comments that you have about them to Bud Carter, Director, Single Family Development Division, Room 9272 in Headquarters, before March 22, 1993. Please note that the box labeled "PUD" on the revised URAR, containing project information, does not need to be completed for mortgage insurance purposes. Also, there is an error in the "Cost Approach" box that will be corrected by Fannie Mae.

Please note that although the comment period ends on March 22, 1993, we will continue to accept the test forms until further notice.

Appraiser Licensing and Certification Requirements Chart

The third attachment to this memorandum, for your information, is a chart that was prepared by the Appraisal Subcommittee indicating the licensing and certification requirements for appraisers in each State. Please note that in Oklahoma, Illinois, and Wisconsin the requirements for State licensing do not meet the minimum requirements established by the Appraiser Qualification Board (AOB) of the Appraisal Foundation.

It is the Department's policy that single family fee panel appraisers and Direct Endorsement staff appraisers must meet the minimum standards as set by the AOB, i.e., 2000 hours of experience, 75 hours of education and passing an approved state administered exam. Accordingly, to remain on our fee panels or to be eligible for appointment to our fee panels (should any vacancies arise) in Oklahoma, Illinois, and Wisconsin, the appraiser must be a "state certified residential" appraiser and not just a "licensed" appraiser because the State "certified residential" category meets the AOB minimum qualifications. All Chief Appraisers should be cognizant of any changes that occur in their State licensing laws that might reduce licensing requirements below the AOB standards and make sure that all appraisers with which we do business have the level of State licensing or certification which meets the above stated AOB standards.

If you have any questions about appraiser licensing requirements, please contact the Single Family Valuation Branch in Headquarters at (202) 708-2720.

Attachments

#6
March 18, 1993

TO: All members of Governmental Organization Committee

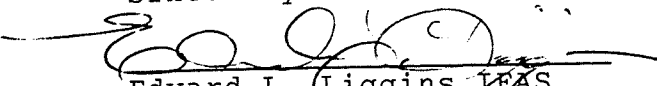
FROM: Coalition of Kansas Appraisers

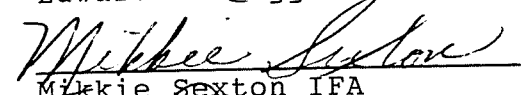
Please be advised that we adamantly oppose any amendments to Senate Bill 270, more specifically, the reduction of experience hours from 2000 to 500. We are gravely concerned that the experience level of something so important could be reduced. We feel that this would be wholly detrimental and benefit only one special interest group.

In effect, this amendment would be an act of futility in as much as the secondary mortgage market (FNMA), Veterans Administration, & HUD all require at least 2-3 years of full-time appraisal experience. A case in point is a recent directive issued by HUD, directing their field offices to employ only those appraisers who meet the 2000 hours of experience requirement. Said copy of directive is attached hereto & made a part of this memo. Additionally, we would like to bring to your attention a letter from Dave Matson, Appraisal Review Manager for a major financial corporation in the state. He has reiterated the importance of experienced appraisers, from a lending position.

In conclusion, we respectfully request that the aforementioned amendment not be considered at this time.

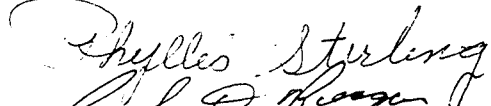
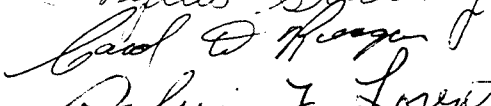
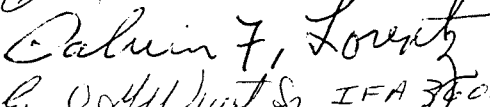
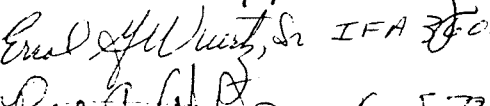
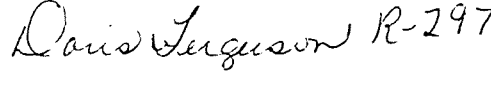
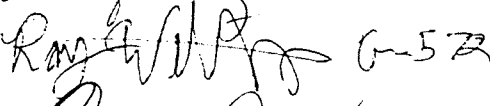
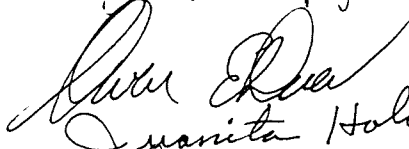
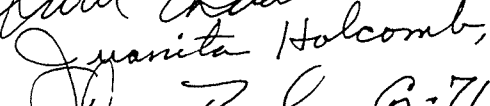
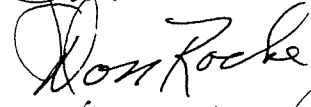
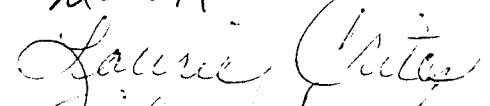
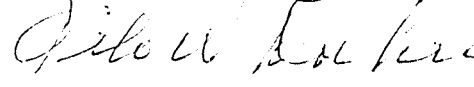
Sincerely Yours,


Edward L. Liggins IFAS


Mikkie Sexton IFA


Tera Cameron IFA

as representatives of the Coalition of Kansas Appraisers

 IFA #3522 Topeka
 CERTIFIED R-133 TOPEKA
 IFA #3457 Fredonia
 IFA #308 HAYS
 R-297
 G-52 Chanute
 ONAGA
 IFA #3521 STATE # R-252 Topeka
 G-717 Blue Rapids
 R-277 Junction City
 CC-920635 Belvidere

3-22-93
House Govt Org + Elec
Attachment 6



U. S. Department of Housing and Urban Development
Washington, D C. 20410-8000

FEB 3 1993

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

RECEIVED

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

RECEIVED

MEMORANDUM FOR: All Regional Directors of Housing
All Directors, Housing Development Divisions
(Categories A and B Offices)
All Managers (Category C Offices)
All Chiefs (Category D Offices)

ATTENTION: All Chief Appraisers

FROM: John J. Coonts, Director, Office of
Insured Single Family Housing, HSI

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Attachments

2-2693
KANSAS REAL ESTATE COMM

FEB 16 1993

RECEIVED

February 11, 1993

IV FOURTH FINANCIAL
CORPORATION

Mr. Timothy Hagemann, Chairman
Kansas Real Estate Appraisal Board
Landon State Office Building
900 S.W. Jackson, Room 501
Topeka, Kansas 66612-1220

Dear Mr. Chairman,

Although we have not had the opportunity to meet, I would like to extend a Thank You from our firm for your leadership provided as chairman of the Appraisal Board. Under the guidance and wisdom of many people such as yourself we trust the appraisal business will continue the professional enhancement it so deserves.

It has come to my attention that the Appraisal Board may be holding discussions concerning the appraisal license experience requirement. Additionally, some interested parties may be advocating a reduction in the requirement from 2,000 hours to 500 hours. On the surface an action such as this may sound attractive, as it would increase the number of appraisers available for use by the lending community, and fees may be lowered. However, the nature of the appraisal business requires seasoned professionals with considerable experience. As the lending community and general public relies upon appraisers to aid in collateral decisions, the professionalism of the appraisal business should not be compromised. We are all too familiar with the bank and savings and loan failures experienced during the 1980's. Positive strides have been taken to enhance the professionalism and accountability of the appraisal profession with the passing of FIRREA, the development of the USPAP, and the implementation of appraiser licensing/certification. It appears that an experience requirement reduction would be a step back at this time.

A few thoughts are listed below from a lending and credit quality perspective.

1. Appraisers providing appraisals which are used to document collateral value should be seasoned professionals. In essence, appraisers make collateral decisions for lenders. Using inexperienced appraisers to document collateral value is less than prudent and may not be a safe and sound practice.

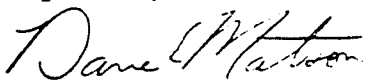
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Mr. Timothy Hagemann, Chairman
Kansas Real Estate Appraisal Board
February 11, 1992

2. The burden of locating good appraisers would be shifted further upon the lending community, and it is doubtful that appraisers with only 500 experience hours could comply with appraisal standards set forth by FIRREA and USPAP. The burden of sifting through those appraisers which are currently licensed or certified and finding those whose products meet these basic standards is already difficult. I have experienced many cases in which appraisers, licensed or certified under current experience requirements, have had difficulty complying with the USPAP and FIRREA appraisal standards. It would be illogical to place even more appraisers on the market who may not have the experience or expertise to comply with these minimum standards.
3. Credit quality, throughout the state, may be compromised as inexperienced appraisers may be more prone to bend to pressures placed upon them by property owners, real estate salespersons, and yes, even some lenders. In general, experienced appraisers are less prone to push values.
4. Inexperienced appraisers may not have sufficient market knowledge or property inspection skills.
5. Competition for borrowers would drive lenders to migrate toward inexperienced appraisers with lower fee structures. Those lenders wishing to maintain a high level of credit quality should not be penalized by paying higher appraisal fees to obtain better quality appraisals.
6. Finally, the spirit of FIRREA, USPAP and state licensing/certification would be further diluted. Why have licensing if anyone can obtain a license?

It should be noted that a slight shortage of seasoned appraisers may exist in the western and southeast portions of the state. However the entire system should not be compromised. Rather the major appraisal organizations should develop mentor or trainee programs designed to monitor those inexperienced individuals entering the appraisal business.

Respectfully Submitted,



Dave E. Matson
Appraisal Review Manager

3-22-93
Hawaii Gov't Org + Elec
Attachment 7

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;

SENATE BILL No. 270

By Committee on Federal and State Affairs

2-9

9 AN ACT amending the state certified and licensed real property
10 appraisers act; amending K.S.A. 1992 Supp. 58-4107, 58-4109, 58-
11 4110, 58-4112, 58-4117 and 58-4118 and repealing the existing
12 sections; also repealing K.S.A. 1992 Supp. 58-4124.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1992 Supp. 58-4107 is hereby amended to read
16 as follows: 58-4107. (a) The board shall adopt rules and regulations
17 prescribing the fees provided for by this act in amounts necessary
18 to administer and enforce this act, subject to the following:

19 (1) For application for certification or licensure, a fee not to
20 exceed \$50.

21 (2) For any examination required for certification or licensure, a
22 fee in an amount equal to the actual cost of the examination and
23 administration thereof.

24 (3) For original or renewal certification or licensure, a fee *based*
25 *on an annual amount* not to exceed \$300.

26 (4) For late renewal of a certificate or license, a late fee not to
27 exceed \$50.

28 (5) For certification to another jurisdiction that an individual is
29 certified or licensed, an amount not exceeding \$25.

30 (6) For approval of a course of instruction approved pursuant to
31 K.S.A. 1992 Supp. 58-4105 and amendments thereto, an amount not
32 to exceed \$100.

33 (7) For renewal of a course of instruction approved pursuant to
34 K.S.A. 1992 Supp. 58-4105 and amendments thereto, an amount not
35 to exceed \$25.

36 (8) *For review of a course of instruction submitted by any li-*
37 *censed or certified appraiser pursuant to rules and regulations of*
38 *the board, an amount not to exceed \$10.*

39 If a certificate or license is issued or renewed for a period other
40 than ~~one year~~ *the full renewal term*, the fee shall be prorated to
41 the nearest whole month.

2 (b) In addition to the certificate or license issued pursuant to this
43 act, the board may offer to provide a wall certificate, which shall

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1 bear no expiration date, and may charge a fee not exceeding \$50 to
2 each appraiser requesting the issuance of a wall certificate.

3 (c) The board may prescribe a fee not to exceed \$50 for regis-
4 tration of an appraiser pursuant to subsection (b) of K.S.A. 1992
5 Supp. 58-4103 and amendments thereto.

6 (d) The board may establish different classes of courses of in-
7 struction for the purpose of establishing fees pursuant to subsections
8 (a)(6) and (7) and may establish a different fee for each such class.

9 (e) In addition to the fees prescribed above, the ~~commission~~
10 ~~board~~ shall collect any registry fee required pursuant to federal law. commission
11 Such registry fees shall be transmitted by the ~~commission board~~ commission
12 to the appraisal subcommittee of the federal financial institutions
13 examination council in accordance with federal law.

14 (f) Except as provided in subsection (g), the ~~commission board~~ commission
15 shall collect all fees provided for by this act. No original or renewed
16 certificate or license shall be issued unless all appropriate fees, in-
17 cluding any federal registry fee, have been paid. *If the amount of*
18 *the federal registry fee is increased by the appraisal subcommittee*
19 *of the federal financial institutions examination council and is payable*
20 *to the appraisal subcommittee prior to the end of the current license*
21 *term, the ~~commission board~~, without delay, shall notify each li-* commission
22 *icensed and certified appraiser of the additional amount due. If any*
23 *licensed or certified appraiser does not pay the required amount*
24 *within 30 days from the date the notice is mailed to the last residence*
25 *address reported to the ~~commission board~~ by the appraiser, the* commission
26 *appraiser's license or certificate shall be suspended until the required*
27 *amount is paid. The board may issue a summary proceeding order*
28 *in accordance with K.S.A. 77-537 to suspend the license or*
29 *certificate.*

30 (g) If a testing service has been designated by the board to
31 administer the examination, each applicant shall pay the examination
32 fee to the testing service.

33 (h) The director of the ~~commission board~~ shall remit to the commission
34 state treasurer at least monthly all moneys, received pursuant to this
35 act. Upon receipt thereof the state treasurer shall deposit the entire
36 amount in the state treasury. Twenty percent of each such deposit,
37 other than amounts collected for federal registry fees or for civil
38 fines imposed pursuant to K.S.A. 1992 Supp. 58-4118 and amend-
39 ments thereto, shall be credited to the state general fund and the
40 balance shall be credited to the appraiser fee fund, which is hereby
41 created in the state treasury. All expenditures from such fund shall
42 be made in accordance with appropriations acts upon warrants of
43 the director of accounts and reports issued pursuant to vouchers

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.~~

director of the commission

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.

director

director of the commission
 director

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;

(2) understanding of the principles of land economics, real estate appraisal processes and problems likely to be encountered in gathering, interpreting and processing data in carrying out appraisal disciplines;

(3) understanding of the standards for the development and communication of real estate appraisals as provided in this act;

(4) knowledge of theories of depreciation, cost estimating, methods of capitalization and mathematics of real estate appraisal that are appropriate for the classification applied for;

(5) knowledge of such other principles and procedures as may be appropriate for the respective classifications;

(6) basic understanding of real estate law;

(7) understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state certified or licensed appraiser, as set forth in this act;

(8) the requirements of federal law; and

(9) such other matters as the board determines appropriate and relevant.

(e) The application for original certification or licensure and examination shall specify the classification being applied for.

(f) In no event shall a certificate or license be issued to an individual unless the examination required for the classification applied for was passed by the applicant within the two-year period immediately preceding the date of ~~application~~ *issuance of the license or certificate*.

(g) The board may approve applications for transitional licenses received prior to December 31, 1991, if the board determines the applicant has met the education and examination requirements established for state licensed appraisers.

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.

The holder of a transitional license may obtain forms from the commission to submit evidence of having completed the experience requirements established for state licensed appraisers. If the board approves issuance of a license prior to the expiration date of the transitional license, the applicant shall return the transitional license to the commission.

Except as provided in this subsection, applicants for transitional

licenses and holders of transitional licenses are subject to all provisions of this act and any rules and regulations adopted hereunder.

Sec. 3. K.S.A. 1992 Supp. 58-4110 is hereby amended to read as follows: 58-4110. (a) Certificates and licenses issued or renewed pursuant to this act before July 1, 1994, shall expire annually on June 30 following issuance or renewal.

(b) Certificates and licenses issued or renewed pursuant to this act on or after July 1, 1994, shall be for terms of three years ending June 30, 1997, and June 30 of each third year thereafter. Licenses and certificates issued on and after July 1 of the first year of any three-year term shall expire on the June 30 ending that three-year period.

(c) The expiration date of the a certificate or license shall appear on the certificate and no other notice of its expiration need be given to its holder.

Sec. 4. K.S.A. 1992 Supp. 58-4112 is hereby amended to read as follows: 58-4112. (a) To obtain renewal of a certificate or license, the holder of a current, valid certificate or license shall make application for renewal on a form provided by the commission and pay the fee prescribed pursuant to K.S.A. 1992 Supp. 58-4107 and amendments thereto to the commission not earlier than 120 days nor later than 30 days prior to later than the renewal date. The renewal date shall be the May 31 immediately preceding the expiration date of the certificate or license then held. With the application for renewal, the applicant shall present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal specified in this act.

(b) If a person fails to apply for renewal prior to the date provided by subsection (a), the person may obtain renewal of a certificate or license if the person, not later than three months after expiration of the certificate or license, satisfies all of the requirements for renewal and pays the renewal and late fees prescribed pursuant to K.S.A. 1992 Supp. 58-4107 and amendments thereto.

Sec. 5. K.S.A. 1992 Supp. 58-4117 is hereby amended to read as follows: 58-4117. (a) As a prerequisite to renewal of a certificate or license, the appraiser shall present evidence satisfactory to the board of having met the continuing education requirements. For a license or certificate issued before July 1, 1994, such evidence shall not be required until the second license or certificate renewal if the original license or certificate expires less than six months after issuance. For a license or certificate issued on or after July 1, 1994, such evidence shall not be required until the second license or certificate renewal if the original license or certificate expires less than

1 18 months after issuance.

2 (b) The basic continuing education requirement for renewal of
3 a certificate or license shall be the completion by the applicant,
4 during the immediately preceding term of certification or li-
5 censure, of the number of hours of classroom instruction which have
6 been established pursuant to K.S.A. 1992 Supp. 58-4109 and amend-
7 ments thereto and which have received the approval of the board.

8 (c) *The hours of instruction shall have been received after the*
9 *appraiser's last renewal date and prior to the current renewal date*
10 *or the date upon which the appraiser files for late renewal. If it is*
11 *the first renewal of any appraiser's license or certificate, the hours*
12 *of instruction shall have been received after the date the license or*
13 *certificate was issued and prior to the current renewal date or the*
14 *date upon which the appraiser files for late renewal.*

15 (d) No amendment or repeal of a rule and regulation adopted
16 by the board shall operate to deprive an applicant of credit toward
17 renewal of a certificate or license for any course of instruction com-
18 pleted by the applicant prior to the amendment or repeal of the
19 rule and regulation which would have qualified for continuing ed-
20 ucation credit under the rule and regulation as it existed prior to
21 the repeal or amendment.

22 ~~(d)~~ (e) A certificate or license that has been revoked as a result
23 of disciplinary action by the board shall not be reinstated unless the
24 applicant presents evidence of completion of the continuing education
25 required pursuant to this act. This requirement of evidence of con-
26 tinuing education shall not be imposed upon an applicant for rein-
27 statement who has been required to successfully complete an
28 examination ~~(d)~~ as a condition of reinstatement.

as a

29 Sec. 6. K.S.A. 1992 Supp. 58-4118 is hereby amended to read
30 as follows: 58-4118. (a) The board may investigate the actions of a
31 state certified or licensed appraiser and may revoke or suspend the
32 certificate or license of the appraiser, or censure the appraiser, for
33 any of the following acts or omissions:

34 (1) Procuring or attempting to procure a certificate or license
35 pursuant to this act by knowingly making a false statement, sub-
36 mitting false information, refusing to provide complete information
37 in response to a question in an application for certification or licen-
38 sure or any form of fraud or misrepresentation;

39 (2) failing to meet the minimum qualifications established by this
40 act;

41 (3) paying money, other than provided for by this act, to any
42 member or employee of the board or commission to procure a cer-
43 tificate or license under this act;

1 (4) a plea of guilty or nolo contendere to, or conviction of: (A)
2 Forgery, embezzlement, obtaining money under false pretenses, lar-
3 ceny, extortion, conspiracy to defraud or any other similar offense;
4 (B) a crime involving moral turpitude; or (C) any felony charge;

5 (5) an act or omission involving dishonesty, fraud or misrepres-
6 sentation, with the intent to substantially benefit the appraiser or
7 another person or with the intent to substantially injure another
8 person;

9 (6) violation of any of the standards for the development or com-
10 munication of real estate appraisals as provided in this act;

11 (7) failure or refusal without good cause to exercise reasonable
12 diligence in developing an appraisal, preparing an appraisal report
13 or communicating an appraisal;

14 (8) negligence or incompetence in developing an appraisal, pre-
15 paring an appraisal report or communicating an appraisal;

16 (9) willfully disregarding or violating any provision of this act or
17 rules and regulations of the board for the administration and en-
18 forcement of the provisions of this act;

19 (10) accepting an appraisal assignment, described in K.S.A. 1992
20 Supp. 58-4122 and amendments thereto, when the employment itself
21 is contingent upon the appraiser reporting a predetermined estimate,
22 analysis or opinion, or when the fee to be paid is contingent upon
23 the opinion, conclusion or valuation reached, or upon the conse-
24 quences resulting from the appraisal assignment;

25 (11) violating the confidential nature of governmental records to
26 which the appraiser gained access through employment or engage-
27 ment as an appraiser by a governmental agency; or

28 (12) entry of a final civil judgment against the person on grounds
29 of fraud, misrepresentation or deceit in the making of any appraisal
30 of real property.

31 (b) In addition to or in lieu of any other administrative, civil or
32 criminal remedy provided by law, the board upon a finding that a
33 state certified or licensed appraiser has violated any provision of this
34 act or of any rules and regulations adopted hereunder, may impose
35 upon such appraiser a civil fine not exceeding \$1,000 for each vi-
36 olation. All moneys collected by the board from such fines shall be
37 remitted to the state treasurer at least monthly. Upon receipt thereof,
38 the state treasurer shall deposit the entire amount in the state treas-
39 ury and credit it to the state general fund.

40 (c) In a disciplinary proceeding based upon a civil judgment, the
41 appraiser shall be afforded an opportunity to present matters in
42 mitigation and extenuation but may not collaterally attack the civil
43 judgment.

1 (d) *the authority of the board to conduct investigations and dis-*
2 *ciplinary proceedings shall apply to all real estate appraisals per-*
3 *formed by licensed and certified appraisers regardless of whether*
4 *the appraisal involves a federally related transaction for which a*
5 *state licensed or certified appraiser is required pursuant to federal*
6 *law.*

7 (e) All administrative proceedings pursuant to this section shall
8 be conducted in accordance with the Kansas administrative procedure
9 act.

10 Sec. 7. K.S.A. 1992 Supp. 58-4107, 58-4109, 58-4110, 58-4112,
11 58-4117, 58-4118 and 58-4124 are hereby repealed.

12 Sec. 8. This act shall take effect and be in force from and after
13 its publication in the ~~statute book~~ _____ Kansas register

SENATE BILL No. 271

By Committee on Federal and State Affairs

2-9

9 AN ACT amending the real estate brokers' and salesperson' sales-
10 persons' license act; amending K.S.A. 1992 Supp. 58-3035, 58-
11 3040, 58-3042, 58-3046a, 58-3048, 58-3062 and 58-3063 and re-
12 pealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1992 Supp. 58-3035 is hereby amended to read
16 as follows: 58-3035. As used in this act, unless the context otherwise
17 requires:

18 (a) "Advance listing fee" means any fee charged for services re-
19 lated to promoting the sale or lease of real estate and paid in advance
20 of the rendering of such services, including any fees charged for
21 listing, advertising or offering for sale or lease any real estate, but
22 excluding any fees paid solely for advertisement or for listing in a
23 publication issued for the sole purpose of promoting the sale or lease
24 of real estate wherein inquiries are directed to the owner of the real
25 estate or to real estate brokers and not to unlicensed persons who
26 publish the listing.

27 (b) "Agency agreement" means a written agreement between the
28 principal and the licensee setting forth the terms and conditions of
29 the relationship.

30 (c) "Associate broker" means an individual who has a broker's
31 license and who is employed by another broker or is associated with
32 another broker as an independent contractor and participates in any
33 activity described in subsection (f).

34 (d) "Branch broker" means an individual who has a broker's li-
35 cense and who has been designated to supervise a branch office and
36 the activities of salespersons and associate brokers assigned to the
37 branch office.

38 (e) "Branch office" means a place of business other than the
39 principal place of business of a broker.

40 (f) "Broker" means an individual, other than a salesperson, who
41 advertises or represents that such individual engages in the business
42 of buying, selling, exchanging or leasing real estate or who, for
43 compensation, engages in any of the following activities as an em-

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Attachment 9

1 ployee of, or on behalf of, the owner, purchaser, lessor or lessee of
2 real estate:

3 (1) Sells, exchanges, purchases or leases real estate.

4 (2) Offers to sell, exchange, purchase or lease real estate.

5 (3) Negotiates or offers, attempts or agrees to negotiate the sale,
6 exchange, purchase or leasing of real estate.

7 (4) Lists or offers, attempts or agrees to list real estate for sale,
8 lease or exchange.

9 (5) Auctions or offers, attempts or agrees to auction real estate
10 or assists an auctioneer by procuring bids at a real estate auction.

11 (6) Buys, sells, offers to buy or sell or otherwise deals in options
12 on real estate.

13 (7) Assists or directs in the procuring of prospects calculated to
14 result in the sale, exchange or lease of real estate.

15 (8) Assists in or directs the negotiation of any transaction cal-
16 culated or intended to result in the sale, exchange or lease of real
17 estate.

18 (9) Engages in the business of charging an advance listing fee.

19 (10) Provides lists of real estate as being available for sale or
20 lease, other than lists provided for the sole purpose of promoting
21 the sale or lease of real estate wherein inquiries are directed to the
22 owner of the real estate or to real estate brokers and not to unlicensed
23 persons who publish the list.

24 (g) *"Commercial or investment real estate property" means any*
25 *real estate for which the present use is other than: (1) One to four*
26 *residential units; or (2) for agricultural purposes.*

27 (h) "Commission" means the Kansas real estate commission.

28 ~~(h)~~ (i) "Lease" means rent or lease for nonresidential use.

29 ~~(i)~~ (j) "Licensee" means any person licensed under this act as a
30 broker or salesperson.

31 ~~(j)~~ (k) "Office" means a broker's place of business, where records
32 may be maintained and licenses displayed, whether or not it is the
33 broker's principal place of business.

34 ~~(k)~~ (l) "Person" means any individual or any foreign or domestic
35 corporation, partnership or association.

36 ~~(l)~~ (m) "Real estate" means any interest or estate in land, in-
37 cluding any leasehold or condominium, whether corporeal, incor-
38 poreal, freehold or nonfreehold and whether the real estate is
39 situated in this state or elsewhere, but does not include oil and gas
40 leases, royalties and other mineral interests.

41 ~~(m)~~ (n) "Salesperson" means an individual, other than an asso-
42 ciate broker, who is employed by a broker or is associated with a
43 broker as an independent contractor and participates in any activity

described in subsection (f).

~~(n)~~ (o) "Supervising broker" means an individual, other than a branch broker, who has a broker's license and who has been designated as the broker who is responsible for the supervision of the primary office of a broker and the activities of salespersons and associate brokers who are assigned to such office and all of whom are licensed pursuant to subsection (b) of K.S.A. 58-3042 and amendments thereto. "Supervising broker" also means a broker who operates a sole proprietorship and with whom associate brokers or salespersons are affiliated as employees or independent contractors.

Sec. 2. K.S.A. 1992 Supp. 58-3040 is hereby amended to read as follows: 58-3040. (a) A nonresident of this state may be granted a broker's license if:

(1) The nonresident is licensed as a broker in the nonresident's state of residence; and

(2) such nonresident meets all requirements imposed by this act on Kansas residents for licensure as a broker, except that the commission may waive the education requirements and the examination requirement for a nonresident who has received education equivalent to that required by Kansas, and has passed an examination equivalent to that given to Kansas residents and whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses provided by subsection (b) of K.S.A. 58-3046a and amendments thereto, the examination provided by K.S.A. 58-3039 and amendments thereto and the experience provided by subsection (c) of K.S.A. 58-3039 and amendments thereto for a nonresident who, in the judgment of the commission, has received equivalent education, has passed an equivalent examination and has obtained equivalent experience.

(b) A nonresident salesperson or broker employed by or associated with a broker licensed pursuant to this act may be granted a salesperson's or broker's license under such broker, if:

(1) The salesperson or associate broker is licensed as a salesperson or associate broker in the salesperson's or associate broker's state of residence; and

(2) such salesperson or associate broker meets all requirements imposed by this act on Kansas residents for licensure as a salesperson or broker, except that the commission may waive the education requirements and the examination requirement for a nonresident salesperson or associate broker who has received an education equivalent to that required by this state and has passed an examination equivalent to that given to Kansas res-

1 idents and whose state of residence has entered into a recip-
2 rocal agreement with the commission as to the issuance of
3 reciprocal licenses provided by subsection (b) of K.S.A. 58-3046a
4 and amendments thereto, the examination provided by K.S.A. 58-
5 3039 and amendments thereto and the experience provided by sub-
6 section (c) of K.S.A. 58-3039 and amendments thereto if, in the
7 judgment of the commission, the broker has received equivalent ed-
8 ucation, has passed an equivalent examination and has obtained
9 equivalent experience.

10 (c) A nonresident salesperson employed by or associated with a
11 broker licensed pursuant to this act may be granted a salesperson's
12 license under such broker, if:

13 (1) The salesperson is licensed as a salesperson in the salesper-
14 son's state of residence; and

15 (2) such salesperson meets all requirements imposed by this act
16 on Kansas residents for licensure as a salesperson, except that the
17 commission may waive the education provided by subsection (a) of
18 K.S.A. 58-3046a and amendments thereto and the examination pro-
19 vided by K.S.A. 58-3039 and amendments thereto if, in the judgment
20 of the commission, the salesperson has received equivalent education
21 and has passed an equivalent examination.

22 (d) The commission may enter into agreements with other juris-
23 dictions as to the issuance of reciprocal licenses.

24 (e) The commission may waive the education provided by sub-
25 section (b) of K.S.A. 58-3046a and amendments thereto, the exam-
26 ination provided by K.S.A. 58-3039 and amendments thereto and
27 the experience provided by subsection (c) of K.S.A. 58-3039 and
28 amendments thereto and issue an original broker's license to a Kansas
29 resident who holds a broker's license issued by another jurisdiction
30 if, in the judgment of the commission, the applicant received equiv-
31 alent education, passed an equivalent examination and obtained
32 equivalent experience. The applicant shall meet all other require-
33 ments imposed by this act.

34 (f) The commission may waive the education provided by sub-
35 section (a) of K.S.A. 58-3046a and amendments thereto and the
36 examination provided by K.S.A. 58-3039 and amendments thereto
37 and issue an original salesperson's license to a Kansas resident who
38 holds a salesperson's license issued by another jurisdiction if, in the
39 judgment of the commission, the applicant received equivalent ed-
40 ucation and passed an equivalent examination. The applicant shall
41 meet all other requirements imposed by this act.

42 (g) Prior to the issuance of a license to a nonresident, the
43 applicant shall file with the commission a designation in writing that

1 appoints the director of the commission as the applicant's agent,
2 upon whom all judicial and other process or legal notices directed
3 to the applicant may be served in the event such applicant becomes
4 a licensee. Any process or legal notices to a nonresident licensee
5 shall be directed to the director, accompanied by a fee of \$3, and,
6 in the case of a summons, shall require the nonresident licensee to
7 answer within 40 days from the date of service on such licensee. A
8 summons and a certified copy of the petition shall be forthwith
9 forwarded by the clerk of the court to the director, who shall im-
10 mediately forward a copy of the summons and the certified copy of
11 the petition to the nonresident licensee. Thereafter, the director
12 shall make return of the summons to the court from which it was
13 issued, showing the date of its receipt by the director, the date of
14 forwarding and the name and address of the person to whom the
15 director forwarded a copy. Such return shall have the same force
16 and effect as a return made by the sheriff on process directed to
17 the sheriff.

18 ~~(d)~~ (h) Prior to the issuance of a license to a nonresident, the
19 applicant must agree in writing to abide by all provisions of this act
20 with respect to the applicant's real estate activities within the state
21 and submit to the jurisdiction of the commission and the state in
22 all matters relating thereto. Such agreement shall be filed with the
23 commission and shall remain in force for so long as the nonresident
24 is licensed by this state and thereafter with respect to acts or
25 omissions committed while licensed as a nonresident.

26 ~~(e)~~ (i) A nonresident licensed under this section shall be entitled
27 to the same rights and subject to the same obligations as are provided
28 in this act for Kansas residents, except that revocation or suspension
29 of a nonresident's license in the nonresident's state of residence shall
30 automatically cause the same revocation or suspension of such non-
31 resident's license issued under this act. No hearing shall be granted
32 to a nonresident licensee where license is subject to such automatic
33 revocation or suspension except for the purpose of establishing the
34 fact of revocation or suspension of the nonresident's license by the
35 nonresident's state of residence.

36 Sec. 3. K.S.A. 1992 Supp. 58-3042 is hereby amended to read
37 as follows: 58-3042. (a) No real estate license shall give authority to
38 any person other than the person to whom the license is issued.

39 (b) No license shall be granted to a corporation ~~or~~, partnership,
40 *association or limited liability company*. Each person who is an officer
41 of a corporation or a member of a partnership ~~or~~, *association or*
42 *limited liability company* and who performs any act described in
43 subsection (f) of K.S.A. 58-3035 and amendments thereto shall be a

1 licensed broker, and each person who is employed by or associated
2 with a corporation, partnership or, association or *limited liability*
3 *company* and who performs any act described in subsection (f) of
4 K.S.A. 58-3035 and amendments thereto shall be a licensed broker
5 or licensed salesperson.

6 Sec. 4. K.S.A. 1992 Supp. 58-3046a is hereby amended to read
7 as follows: 58-3046a. (a) *Except as provided in K.S.A. 58-3040 and*
8 *amendments thereto*, any person who applies for an original license
9 in this state as a salesperson shall submit evidence, satisfactory to
10 the commission, of attendance of a principles of real estate course,
11 of not less than 30 hours of instruction, approved by the commission
12 and received within the 12 months immediately preceding the filing
13 of application for salesperson's license. The commission may require
14 the evidence to be furnished to the commission with the original
15 application for license or it may require the applicant to furnish the
16 evidence to the testing service designated by the commission as a
17 prerequisite to taking the examination required by K.S.A. 58-3039
18 and amendments thereto. If the evidence is furnished to the testing
19 service, the instruction shall have been received within 12 months
20 immediately preceding the date of the examination.

21 (b) *Except as provided in K.S.A. 58-3040 and amendments*
22 *thereto*, any person who applies for an original license in this state
23 as a broker shall submit evidence, satisfactory to the commission, of
24 attendance of 24 hours of instruction, approved by the commission
25 and received within the 12 months immediately preceding the filing
26 of application for broker's license. Such hours shall be in addition
27 to any hours of instruction used to meet the requirements of sub-
28 section (c), (d) or (e). The commission may require the evidence to
29 be furnished to the commission with the original application for
30 license, or it may require the applicant to furnish the evidence to
31 the testing service designated by the commission as a prerequisite
32 to taking the examination provided in K.S.A. 58-3039 and amend-
33 ments thereto. If the evidence is furnished to the testing service,
34 the instruction shall have been received within 12 months imme-
35 diately preceding the date of the examination.

36 (c) Except as provided in subsections (d) and (e), at or prior to
37 each renewal date established by the commission, any person who
38 is licensed in this state as a broker or as a salesperson shall submit
39 evidence, satisfactory to the commission, of attendance of not less
40 than 12 hours of additional instruction approved by the commission
41 and received during the renewal period.

42 (d) Any person who obtained an original license in this state as
43 a salesperson after July 1, 1988, and before July 1, 1991, shall submit

1 evidence, satisfactory to the commission, of attendance of courses of
 2 instruction approved by the commission at or prior to each renewal
 3 date established by the commission as follows:

4 (1) At or prior to the first license renewal, 50 hours of instruction
 5 received after the date of licensure. Such evidence shall not be
 6 required until the second license renewal if the original license
 7 expires less than six months after issuance.

8 (2) At or prior to each license renewal thereafter, 12 hours of
 9 additional instruction received during the renewal period.

10 Any salesperson who obtains a broker's license in this state prior
 11 to completing the 50 hours of instruction required by this subsection
 12 shall submit the same evidence to renew the broker's license that
 13 would have been required to renew the salesperson's license.

14 (e) Any person who obtains an original license in this state as a
 15 salesperson on or after July 1, 1991, shall submit evidence, satis-
 16 factory to the commission, of attendance of courses of instruction
 17 approved by the commission at or prior to each renewal date es-
 18 tablished by the commission as follows:

19 (1) At or prior to the first license renewal, 30 hours of instruction
 20 received after the date of licensure. Such evidence shall not be
 21 required until the second license renewal if the original license
 22 expires less than six months after issuance.

23 (2) At or prior to each license renewal thereafter, 12 hours of
 24 additional instruction received during the renewal period.

25 Any salesperson who obtains a broker's license in this state prior
 26 to completing the 30 hours of instruction required by this subsection
 27 shall submit the same evidence to renew the broker's license that
 28 would have been required to renew the salesperson's license.

29 (f) *The hours on record with the commission of any person who*
 30 *accumulated hours of instruction which were reported to the com-*
 31 *mission by January 1, 1983, and are on record with the commis-*
 32 *sion shall receive credit for those hours to apply toward*
 33 *requirements of subsection (e) who, on July 1, 1993, has more*
 34 *than 12 hours on record shall be reduced by the commission to 12*
 35 *hours. The 12 hours which remain on the licensee's record on July*
 36 *1, 1993, shall be used to meet the requirement of subsection (c) at*
 37 *the licensee's next license renewal.*

38 (g) *On and after January 1, 1994, courses of instruction required*
 39 *by this section shall be courses approved by the commission and*
 40 *offered by:*

41 (1) *An institution which qualifies as an eligible institution*
 42 *for the federal guaranteed loan program under the higher ed-*
 43 *ucation act of 1965 (P.L. 89-329), as amended; is accredited by*

Except for courses reviewed pursuant
 to subsection (j),

1 *the north central association of colleges and secondary schools ac-*
 2 *crediting agency;*

3 (2) *an area vocational or vocational-technical school as defined*
 4 *by K.S.A. 72-4412 and amendments thereto;*

5 (3) *a proprietary school which has been issued a certificate of*
 6 *approval pursuant to the Kansas proprietary school act;*

7 (4) *any agency of the state of Kansas; or*

8 (5) *a similar institution, approved by the commission, in another*
 9 *state.*

10 (g) (h) The commission shall adopt rules and regulations to: (1)
 11 Prescribe minimum curricula and standards for all courses offered
 12 to fulfill education requirements of this act, (2) designate a course
 13 of study to fulfill any specific requirement, (3) prescribe minimum
 14 qualifications for instructors of approved courses and (4) monitor
 15 courses and withdraw approval of courses and instructors.

16 (h) (i) *The commission may approve nontraditional courses con-*
 17 *sisting solely or primarily of home study, videotaped or computer-*
 18 *assisted instruction. For the purpose of this section, attendance of*
 19 *one hour of instruction shall mean 50 minutes of classroom instruction*
 20 *or the equivalent thereof in correspondence nontraditional study*
 21 *as determined by the commission.*

22 (i) (j) Courses of instruction required by this section shall be
 23 courses approved by the commission either before or after their
 24 completion.

25 (j) (k) The commission shall publish annually a list of educational
 26 institutions and entities and the courses offered by them in this state
 27 which are approved by the commission.

28 (k) (l) No license shall be issued or renewed unless the applicable
 29 requirements set forth in this section are met within the time
 30 prescribed.

31 Sec. 5. K.S.A. 1992 Supp. 58-3048 is hereby amended to read
 32 as follows: 58-3048. (a) The commission may publish periodically a
 33 list of the names and addresses of all persons licensed under the
 34 provisions of this act. The commission may publish information con-
 35 cerning disciplinary actions and other information relative to en-
 36 forcement of the provisions of this act and may provide such
 37 information for publication in newspapers and trade journals and to
 38 broadcast media.

39 (b) The commission, may conduct, hold or assist in conducting
 40 or holding real estate courses or institutes, and incur and pay the
 41 necessary expenses incurred thereby, which courses or institutes shall
 42 be open to any licensee without any charge or fee therefor.

43 (c) *The commission may conduct, hold or assist in conducting or*

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.

holding instructor development workshops, and incur and pay the necessary expenses incurred thereby.

(d) The commission may assist real estate institutes and foundations, with financial aid or otherwise, in sponsoring studies, surveys and programs for the benefit of real estate licensees, and the elevation of the real estate business.

(d) (e) The commission shall publicize (1) the existence of the real estate recovery revolving fund and the availability of recovery therefrom; (2) the acts for which recovery may be allowed; and (3) information regarding the filing of claims for payments, including the conditions and limitations to which the filing of claims and recovery are subject under the provisions of the real estate brokers' and salespersons' license act.

Sec. 6. K.S.A. 1992 Supp. 58-3062 is hereby amended to read as follows: 58-3062. (a) No licensee, whether acting as an agent or a principal, shall:

(1) Intentionally use advertising that is misleading or inaccurate in any material particular or that in any way misrepresents any property, terms, values, policies or services of the business conducted, or uses the trade name, collective membership mark, service mark or logo of any organization owning such name, mark or logo without being authorized to do so.

(2) Fail to account for and remit any money which comes into the licensee's possession and which belongs to others.

(3) Misappropriate moneys required to be deposited in a trust account pursuant to K.S.A. 58-3061 and amendments thereto, convert such moneys to the licensee's personal use or commingle the money or other property of the licensee's principals with the licensee's own money or property, except that nothing herein shall prohibit a licensee from depositing in a trust account a sum not to exceed \$100 broker from having funds in an amount not to exceed \$100 in the broker's trust account to pay expenses for the use and maintenance of such account.

(4) Accept, give or charge any rebate or undisclosed commission or pay a referral fee to a person who is properly licensed as a broker or salesperson in another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a rebate by the out-of-state licensee.

(5) Represent or attempt to represent a broker without the broker's express knowledge and consent.

(6) Act in a dual capacity of agent and undisclosed principal in any transaction.

9-10

1 (7) Guarantee or authorize any person to guarantee future profits
2 that may result from the resale of real property.

3 (8) Place a sign on any property offering it for sale or lease
4 without the written consent of the owner or the owner's authorized
5 agent.

6 (9) Offer real estate for sale or lease without the knowledge and
7 consent of the owner or the owner's authorized agent or on terms
8 other than those authorized by the owner or the owner's authorized
9 agent.

10 (10) Induce any party to break any agency agreement or contract
11 of sale or lease.

12 (11) Solicit a listing or negotiate a sale, exchange or lease of real
13 estate directly with an owner or lessor if the licensee knows that
14 such owner or lessor has, with regard to the property, a written
15 agency agreement granting an exclusive right to sell or lease to
16 another broker.

17 (12) Solicit an agency agreement or negotiate a sale, exchange
18 or lease of real estate directly with a buyer or lessee if the licensee
19 knows that such buyer or lessee has a written agency agreement
20 granting exclusive representation to another broker.

21 (13) *Except for a commercial or investment real estate property*
22 *or any property owned by any agency of the federal government,*
23 fail to obtain a written agency agreement, including a fixed date of
24 expiration, signed by the party to be represented and by the licensee
25 or fail to furnish a copy of the agreement to the principal within a
26 reasonable time. The licensee shall not assign, sell or otherwise
27 transfer a written agency agreement to another broker without the
28 express written consent of all parties to the original listing agreement.

29 (14) If the licensee represents the seller ~~or lessor~~, fail to disclose
30 to a prospective buyer ~~or lessee~~ that: (A) The licensee is or will be
31 acting as agent of the seller ~~or lessor~~ with the duty to represent
32 the seller's ~~or lessor's~~ interest; (B) the licensee will not be the agent
33 of the prospective buyer ~~or lessee~~; and (C) information given to the
34 licensee will be disclosed to the seller ~~or lessor~~. The disclosure
35 shall be made orally or in writing when the licensee agrees to assist
36 the prospective buyer ~~or lessee~~ to locate and inspect property and
37 shall be made in any contract for sale ~~or lease~~ and in any lot
38 reservation agreement.

39 (15) If the licensee represents the buyer ~~or lessee~~, fail to disclose
40 to a prospective seller or seller's agent; ~~or lessor or lessor's agent~~;
41 that: (A) The licensee is or will be acting as agent of the buyer ~~or~~
42 ~~lessee~~ with the duty to represent the buyer's ~~or lessee's~~ interest;
43 (B) the licensee will not be the agent of the seller ~~or lessor~~; and

(C) information given to the licensee will be disclosed to the buyer or lessee. The disclosure shall be made orally or in writing no later than the first showing of the property and shall be made in any contract for sale or lease and in any lot reservation agreement.

(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. 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.

(17) Offer or give prizes, gifts or gratuities which are contingent upon an agency agreement or the sale, purchase or lease of real estate.

(18) Enter into a listing agreement on real property in which the broker's commission is based upon the difference between the gross sales price and the net proceeds to the owner.

(19) Fail to see that financial obligations and commitments between the parties to an agreement to sell, exchange or lease real estate are in writing, expressing the exact agreement of the parties or to provide, within a reasonable time, copies thereof to all parties involved.

(20) Procure a signature to a purchase contract which has no definite purchase price, method of payment, description of property or method of determining the closing date.

(21) Include in any agency agreement an authorization to sign or initial any document on behalf of the licensee's principal in a real estate transaction or authorization to act as attorney-in-fact for the principal. The licensee shall not commit forgery or, unless authorized to do so by a duly executed power of attorney, sign or initial any contractual agreement on behalf of another person in a real estate transaction.

(22) Engage in fraud or make any substantial misrepresentation.

(23) Represent to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

(24) Fail to make known to any purchaser or lessee any interest the licensee has in the real estate the licensee is selling or leasing or to make known to any seller or lessor any interest the licensee will have in the real estate the licensee is purchasing or leasing.

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.

1 (25) Fail to inform both the buyer, at the time an offer is made,
2 and the seller, at the time an offer is presented, that certain closing
3 costs must be paid and the approximate amount of such costs.

4 (26) Fail without just cause to surrender any document or in-
5 strument to the rightful owner.

6 (27) Accept anything other than cash as earnest money unless
7 that fact is communicated to the owner prior to the owner's accep-
8 tance of the offer to purchase, and such fact is shown in the purchase
9 agreement.

10 (28) Fail to deposit any check or cash received as an earnest
11 money deposit or as a deposit on the purchase of a lot within five
12 business days after the purchase agreement or lot reservation agree-
13 ment is signed by all parties, unless otherwise specifically provided
14 by written agreement of all parties to the purchase agreement or
15 lot reservation agreement, *in which case the licensee shall deposit*
16 *the check or cash received on the date provided by such written*
17 *agreement.*

18 (29) Fail in response to a request by the commission or the
19 director to produce any document, book or record in the licensee's
20 possession or under the licensee's control that concerns, directly or
21 indirectly, any real estate transaction or the licensee's real estate
22 business.

23 (30) If the licensee represents the seller, fail to promptly submit
24 any written offer to the licensee's principal when such offer is re-
25 ceived prior to the closing of the sale or fail to promptly submit to
26 the prospective buyer or buyer's agent any counteroffer made by
27 the seller, including any back-up offers properly identified as such.

28 (31) If the licensee represents the buyer, fail to promptly submit
29 any written offer to the seller or seller's agent or fail to promptly
30 submit to the licensee's principal any counteroffer made by the seller,
31 including any back-up offers properly identified as such.

32 (32) Refuse to appear or testify under oath at any hearing held
33 by the commission.

34 (33) Demonstrate incompetency to act as a broker, associate bro-
35 ker or salesperson.

36 (34) Fail to disclose, or ascertain and disclose, to any person with
37 whom the licensee is dealing, any material information which relates
38 to the property with which the licensee is dealing and which such
39 licensee knew or should have known.

40 (35) Knowingly receive or accept, directly or indirectly, any re-
41 bate, reduction or abatement of any charge, or any special favor or
42 advantage or any monetary consideration or inducement, involving
43 the issuance of a title insurance policy or contract concerning which

1 the licensee is directly or indirectly connected, from a title insurance
2 company or title insurance agent, or any officer, employee, attorney,
3 agent or solicitor thereof.

4 (36) Engage in the purchase of one-, two-, three- or four-family
5 dwellings, including condominiums and cooperatives, or the acqui-
6 sition of any right, title or interest therein, including any equity or
7 redemption interests, if:

8 (A) (i) At the time of such purchase, the dwellings are subject
9 to a right of redemption pursuant to foreclosure of a mortgage on
10 such dwellings; (ii) the licensee fails to give written notice of the
11 purchase, within 20 days thereafter, to the mortgage holder or judg-
12 ment creditor who held such mortgage; and (iii) the licensee, unless
13 otherwise required by law or court order, fails to apply any rent
14 proceeds from the dwellings to the judgment lien arising from the
15 foreclosure of such mortgage, as payments become due under the
16 loan, regardless of whether the licensee is obligated to do so;

17 (B) (i) the dwellings are subject to a loan which is secured by a
18 mortgage and which is in default at the time of such purchase or
19 in default within one year after such purchase; (ii) the licensee fails
20 to give written notice of the purchase, within 20 days thereafter, to
21 the mortgage holder; and (iii) the licensee, unless otherwise required
22 by law or court order, fails to apply any rent proceeds from the
23 dwellings to the mortgage as the payments come due, regardless of
24 whether the licensee is obligated on the loan; or

25 (C) the licensee fails to notify, at the time of rental, any person
26 renting any such dwelling of the extent and nature of the licensee's
27 interest in such dwelling and the probable time until possession will
28 be taken by the mortgage holder or judgment creditor.

29 (b) Failure to comply with any requirement of subsection (a)(13),
30 (14), (15) or (16) or their corollary rules and regulations shall not by
31 itself render any agreement void or voidable nor shall it constitute
32 a defense to any action to enforce such agreement or any action for
33 breach of such agreement.

34 (c) The commission, ~~by rules and regulations~~, may provide sug-
35 gested forms of agency disclosure and agency agreements and such, by rules and regulations, provide
36 other prohibitions, limitations and conditions relating thereto as the
37 commission may prescribe.

38 (d) No salesperson or associate broker shall:

39 (1) Accept a commission or other valuable consideration from
40 anyone other than the salesperson's or associate broker's employing
41 broker or the broker with whom the salesperson or associate broker
42 is associated.

43 (2) Fail to place, as soon after receipt as practicable, any deposit

1 money or other funds entrusted to the salesperson or associate broker
2 in the custody of the broker whom the salesperson or associate broker
3 represents.

4 (e) No broker shall:

5 (1) Pay a commission or compensation to any person for per-
6 forming the services of an associate broker or salesperson unless such
7 person is licensed under this act and employed by or associated with
8 the broker, except that nothing herein shall prohibit the payment
9 of a referral fee to a person who is properly licensed as a broker or
10 salesperson in another jurisdiction.

11 (2) Fail to deliver to the seller in every real estate transaction,
12 at the time the transaction is closed, a complete, detailed closing
13 statement showing all of the receipts and disbursements handled by
14 the broker for the seller, or fail to deliver to the buyer a complete
15 statement showing all money received in the transaction from such
16 buyer and how and for what the same was disbursed, or fail to retain
17 true copies of such statements in the broker's files, except that the
18 furnishing of such statements to the seller and buyer by an escrow
19 agent shall relieve the broker's responsibility to the seller and the
20 buyer.

21 (3) Fail to properly supervise the activities of an associated or
22 employed salesperson or associate broker.

23 (4) Lend the broker's license to a salesperson, or permit a sa-
24 lesperson to operate as a broker.

25 (5) Fail to provide to the principal a written report every 30
26 days, along with a final report, itemizing disbursements made by
27 the broker from advance listing fees.

28 (f) If a purchase agreement provides that the earnest money be
29 held by an escrow agent other than a real estate broker, unless
30 otherwise specifically provided by written agreement of all parties
31 to the purchase agreement, no listing broker shall:

32 (1) Fail to deliver the purchase agreement and earnest money
33 deposit to the escrow agent named in the purchase agreement within
34 five business days after the purchase agreement is signed by all
35 parties; or

36 (2) fail to obtain and keep in the transaction file a receipt from
37 the escrow agent showing date of delivery of the purchase agreement
38 and earnest money deposit.

39 Sec. 7. K.S.A. 1992 Supp. 58-3063 is hereby amended to read
40 as follows: 58-3063. (a) The commission shall adopt rules and reg-
41 ulations fixing the amounts of the fees provided for by this act,
42 subject to the following:

43 (1) For any examination required for licensure, a fee in an amount

1 equal to the actual cost of the examination and the administration
2 thereof.

3 (2) For submission of an application for an original salesperson's
4 or broker's license, an amount not exceeding ~~\$15~~ \$25.

5 (3) *for submission of an application for an original broker's li-*
6 *cence, an amount not exceeding \$50.*

7 (4) For an original salesperson's license, a fee based on an annual
8 amount not exceeding ~~\$30~~ \$50.

9 ~~(4)~~ (5) For an original broker's license, a fee based on an annual
10 amount not exceeding ~~\$50~~ \$75.

11 ~~(5)~~ (6) For renewal of a salesperson's license, a fee based on an
12 annual amount not exceeding ~~\$30~~ \$50.

13 ~~(6)~~ (7) For renewal of a broker's license, a fee based on an annual
14 amount not exceeding ~~\$50~~ \$75.

15 ~~(7)~~ (8) For reinstatement of a license which has been deactivated
16 or which has been canceled pursuant to subsection (d) of K.S.A. 58-
17 3047 and amendments thereto, or by reason of termination of a
18 salesperson, an amount not exceeding \$15.

19 ~~(8)~~ (9) For reinstatement of all licenses canceled pursuant to
20 subsection (e) of K.S.A. 58-3047 and amendments thereto, an amount
21 not exceeding \$7.50 for each license canceled.

22 ~~(9)~~ (10) For issuance of a duplicate license, an amount not ex-
23 ceeding \$10.

24 ~~(10)~~ (11) For certification of licensure to another jurisdiction, an
25 amount not exceeding \$10.

26 ~~(11)~~ (12) For approval of a course of instruction *submitted by a*
27 *course provider* pursuant to K.S.A. 58-3046a and amendments
28 thereto, an amount not exceeding ~~\$50~~ \$75.

29 ~~(12)~~ (13) For renewal of an approved course of instruction pur-
30 suant to K.S.A. 58-3046a and amendments thereto, an amount not
31 exceeding \$15.

32 ~~(13)~~ For approval of an instructor pursuant to K.S.A. 58-
33 3046a and amendments thereto, an amount not exceeding \$50.

34 ~~(14)~~ For renewal of an approved instructor pursuant to
35 K.S.A. 58-3046a and amendments thereto, an amount not ex-
36 ceeding \$15.

37 (14) *For approval of a course of instruction submitted by any*
38 *licensee for credit toward the 12 hours of additional instruction*
39 *required by K.S.A. 58-3046a and amendments thereto, an amount*
40 *not less than \$10 nor more than \$20, as determined by the*
41 *commission.*

42 (b) Subject to the limitations of this section, the commission shall
43 fix the fees provided for by this section in the amounts necessary

1 to administer and enforce this act.

2 (c) The fees provided for by this section shall be applicable re-
3 gardless of the type of license.

4 Sec. 8. K.S.A. 1992 Supp. 58-3035, 58-3040, 58-3042, 58-3046a,
5 58-3048, 58-3062 and 58-3063 are hereby repealed.

6 Sec. 9. This act shall take effect and be in force from and after
7 its publication in the statute book.

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