

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2295**

As Agreed to March 26, 2007

Brief*

Sen. Sub. for HB 2295 would amend the Real Estate Brokers' and Salespersons' Act dealing with disciplinary effects of criminal convictions on the issuance, renewal, or revocation of real estate brokers' and salespersons' licenses and make several changes to the law governing licensure.

Under the bill, the Kansas Real Estate Commission (Commission) would require an applicant to be fingerprinted and submit to a state and national criminal history background check. The Commission could use the information obtained to determine the qualifications and fitness of the person to be issued or to maintain a license. The Commission also could charge a fee for reimbursement of the cost for fingerprinting and a background check.

Local and state law enforcement officers would be required to:

- Assist in the taking and processing of fingerprints of applicants for and holders of any license; and
- Release all records of adult convictions to the Commission.

Under the bill, the Commission's discretion to grant or renew a license would be limited in certain cases in which the applicant has been convicted of a crime requiring registration

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under the Kansas Offender's Registration Act. Specifically, no license could be issued to any applicant who:

- Had been convicted of any offense, including corresponding offenses from another jurisdiction, which requires registration under the Kansas Offender's Registration Act.
- Had been convicted of any felony, including corresponding offenses from another jurisdiction, other than one that requires registration under the Kansas Offender's Registration Act.

The Commission may consider granting a license to an applicant who has been convicted of a felony or a crime requiring registration upon the applicant presenting proof satisfactory to the Commission that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of real estate in such a manner as to safeguard the interest of the public and the following time frame since the date of the applicant's release from post discharge supervision would be:

- At least 15 years has elapsed if the crime required registration under the Kansas Offender's Registration Act; or
- At least five years has elapsed if the conviction was a felony other than a crime requiring registration under the Kansas Offender's Registration Act.

In considering the issuance of a license under special circumstances, the following factors may be considered:

- The extent and nature of the applicant's past criminal activity;
- The age of the applicant at the time of the crimes;

- The amount of time elapsed since the applicant's last criminal activity;
- The conduct and work activity of the applicant prior to, and following the criminal activity;
- Evidence of the applicant's rehabilitation; and
- Any other evidence of the applicant's fitness for licensure.

The bill would provide for a grandfather clause for those licensees who have entered a plea of guilty or nolo contendere to, or have been convicted of, a felony if such person disclosed the plea or conviction in an application for a license or renewal, prior to July 1, 2007.

The bill would authorize the Commission to set fees to reimburse itself for costs and any background check.

The bill would change the law regarding a real estate salesperson's or broker's license by implementing additional requirements concerning education and examination criteria.

The bill would eliminate the six-month temporary salesperson license and the 30-hour post-license course. An original applicant for a salesperson's license would take the 30-hour pre-license course, a 30-hour practice course, and the state portion of the license examination prior to filing the license application. If an applicant files an application prior to July 1, 2007, the bill would provide this group of persons come under the prior rules as temporary salespersons, who would complete a post-license course, and then change to a standard salesperson license in six to nine months.

Broker applicants would be required to complete a four-hour course and complete the state portion of the broker license examination.

The bill would require a supervising broker to register a business or trade name with the Real Estate Commission which can approve or deny the use of the name. The provision was formerly under KAR 86-3-3.

The bill also would provide procedures for how pending transactions would be handled when salespersons or associate brokers are employed by or associated with a supervising broker whose license expires or is suspended or revoked.

In addition, the bill would provide the Commission with the authority to revoke the license of a licensee who voluntarily surrenders a license or who does not renew a license pending investigation or charges of misconduct.

Conference Committee Action

The House concurred with the Senate amendment with the following exception:

- The period for consideration of granting a license after post-release supervision would be for 15 years instead of 10, if the crime required registration under the Kansas Offenders' Registration Act.

In addition, the Conference Committee agreed to include the provisions of HB 2561 as amended by the House Committee on Commerce and Labor and a technical amendment in HB 2295.

Background

No conferees testified on the substitute bill.

The House Committee amended the original bill by removing juveniles from the criminal history record check and substituting the word "shall" for "may" regarding the requirement

for the criminal history record check. In addition, the Committee reinserted language to the provision on disciplinary actions by the Commission; substituted the term of 15 years for refusal to grant a license and reinserted current law language regarding certain crimes under which the Commission may refuse to grant or renew a license; and inserted provisions which would clarify the definition of “sentence” and grandfather in licenses issued when a felony which existed at the time was disclosed to the Commission in the application process.

The House Committee of the Whole amendments were technical in nature.

The Senate Committee amended the bill by creating a substitute bill.

The Senate Committee of the Whole’s amendment was technical in nature.

The fiscal note was not available when the substitute bill was passed out of the Senate Committee.