AGENDA
April 20, 2020
Dial: +1 (646) 749-3131
Access Code: 391-266-805
Web Video Interface: https://global.gotomeeting.com/join/391266805

9:00 a.m. Call to Order – Additions to Agenda

1. Approval of the Minutes of the February 17, 2020 and March 20, 2020 Commission Meeting

2. Formal Hearings:
   • Joe Gardenhire, Broker Application – 9:00 a.m.
   • Debbie Wharton, Broker Application – 9:30 a.m.
   • Thomas Karras, Broker Application – 10:00 a.m.

3. Staff Reports
   • Compliance Report
   • Licensee, Education and Exam Report
   • Director’s Report

4. Possible Public Comment

Adjournment

Upcoming Commission Meeting Dates:
• May 18, 2020
MINUTES OF THE
FEBRUARY 17, 2020
COMMISSION
MEETING
The Kansas Real Estate Commission held its regular meeting on Monday, February 17, 2020, at 9:00 a.m. at Jayhawk Tower, 700 S.W. Jackson Street, Suite 404, Topeka, Kansas 66603.

Commissioners Present:
Errol Wuertz, Chairperson
Bryon Schlosser, Vice-Chairperson
Joe Vaught, Member
Sue Wenger, Member
Connie O’Brien, Member

Staff Present:
Erik Wisner, Executive Director
Kelly White, Deputy Director, Director of Licensing and Education
Wendy Alkire, Director of Compliance
Amber Nutt, Real Estate Education Specialist
Stacey Serra, Legal Assistant

Kansas Real Estate Commission Legal Counsel:
Jane Weiler, Assistant Attorney General
Charles Macheers, Assistant Attorney General

Members of the Public:
Kathy McCarty
Mark Tomb

Call to Order
Mr. Wuertz called the meeting to order at 9:00 a.m.

Approval of the Minutes of the January 6, 2020 Meeting
Ms. Wenger made the motion, seconded by Ms. O’Brien, to approve the minutes from the January 6, 2020 meeting. Motion carried unanimously.

Hearing of Dale Brouk, Docket No. 20-8245

Hearing of Janet Audiss, Docket No. 20-8107
Hearing of Kim Hagen, Docket No. 20-8298

Mr. Wuertz recessed the KOMA meeting at 10:15 a.m.
Mr. Wuertz reconvened the KOMA meeting at 10:25 a.m.

Hearing of Erich Massad, Docket No. 20-8212

Compliance Report
The Commission reviewed the status of open legal cases. The oldest complaint pending review (non-litigation) is from March 23, 2017 (previously held due to litigation). The oldest disciplinary file pending staff review is from July 2, 2018. The oldest disciplinary file pending review by the attorney general’s staff is from August 27, 2018.

Staff completed 201 compliance reviews in FY2020. The current turnaround time for compliance review results is 12 months. Zero transactions were reported by 35% of brokers in the last four fiscal years. Seven repeat violations were found during 30 follow up reviews in FY2020. Eleven percent of complaints in the last four fiscal years were reported anonymously.

The Commission reviewed a brochure, video and Power Point slides prepared by staff regarding changes to advertising rules effective July 1, 2020. Compliance courses are scheduled for March 25 and July 21, 2020.

Licensee, Education and Exam Report
As of January 30, 2020, there are 16,885 licensees, an increase of 335 from last year, and 246 pending applications (51 salesperson, 43 broker and 152 fingerprint-only files).

Staff approved one mandatory and 16 elective continuing education courses and three pre-license courses from November 1, 2019 to January 31, 2020.

In FY2020, Pearson Vue administered 1,758 exams with an overall pass rate of 66%. Sixty-six brokers and 306 salespersons tested based on requirements met in another state. Brokers had a 73% pass rate, and salespersons had an 87% pass rate.

The Commission reviewed the proposed outline for the Kansas required core course revised to include feedback from course providers.

Mr. Schlosser made the motion, seconded by Mr. Vaught, to approve the proposed outline for Kansas required core courses taught beginning on or before January 1, 2021. Motion carried unanimously.

Director’s Report
Real estate fee fund receipts are $762,535 which is 7% higher than estimated. Real estate fee fund expenditures for FY2020 are $617,910 which is 4% or $40,734 lower than estimated.

The real estate fee fund balance is $1,058,564 which is up $143,244 from July 1, 2019. Background investigation fee fund receipts for FY2020 are $71,355 which is 1% lower than estimated. Real estate recovery fund receipts for FY2020 are $4,025 and the balance in the fund is $293,164.
Final review of the Commission’s budget will occur after May 1, 2020. Enhancement requests for the Special Litigation Reserve Fund and FY2021 pay increases are included in the proposed budget.

Mr. Wisner gave an update on Senate Bill 244. As proposed, the bill provides that all rules and regulations in existence on July 1, 2020 shall expire five years from that date, and any new rule or regulation or substantial amendment of an existing rule or regulation shall expire on July 1 of the fifth year after such enactment, unless the legislature adopts legislation to renew such rule or regulation.

Mr. Wisner gave an update on House Bill 2506/Senate Bill 366. The proposed bill amends the occupational and professional licensing standards for regulatory agencies to receive and review applications from any individual who has established or plans to establish residency in Kansas. The bill had an initial hearing on February 13.

Mr. Wisner gave an update on Senate Bill 391. As proposed, SB391 would require every agency to do a comprehensive review of all occupational or license regulations within their jurisdictions by July 1, 2021. If the review finds a license or occupation doesn’t fulfill legitimate public health, safety or welfare objectives, the agency shall recommend repeal or modification of the license or regulation. The bill would allow a person to petition any agency to repeal or modify any occupational regulation within its jurisdiction. Mr. Vaught made the motion, seconded by Mr. Schlosser, to oppose Senate Bill 391. Motion carried unanimously.

Mr. Wisner reported the Senate Commerce Committee will review a briefing on last year’s Senate Bill 42 including an additional provision to cap rebates at 0.5% of the purchase price.

Mr. Wisner reported the Senate Commerce Committee will review last year’s Senate Bill 168 for Home Inspector registration.

The Commission reviewed a tracking list for other relevant legislation and a report and letter from the Consumer Federation of America.

Mr. Schlosser made the motion, seconded by Mr. Vaught, to adjourn the meeting. Motion carried unanimously.

Mr. Wuertz adjourned the meeting at 12:25 p.m.
MINUTES OF THE MARCH 20, 2020 COMMISSION MEETING
MINUTES OF THE MEETING
Kansas Real Estate Commission
March 20, 2020

The Kansas Real Estate Commission met by telephone conference call on Friday, March 20, 2020, at 11:00 a.m.

Commissioners Present:
Errol Wuertz, Chairperson
Bryon Schlosser, Vice-Chairperson
Connie O’Brien, Member
Joe Vaught, Member
Sue Wenger, Member

Staff Present:
Erik Wisner, Executive Director
Kelly White, Deputy Director, Director of Licensing and Education
Wendy Alkire, Director of Compliance
Amber Nutt, Real Estate Education Specialist
Stacey Serra, Legal Assistant

Kansas Real Estate Commission Legal Counsel:
Jane Weiler, Assistant Attorney General
Charles Macheers, Assistant Attorney General
Christine Sankoorikal, Assistant Attorney General

Members of the Public:
Mark Barker
Kathy McCarty
Mark Tomb

Call to Order
Mr. Wuertz called the meeting to order at 11:06 a.m.

Logistical Issues Related to Covid-19 Restrictions
The Commission reviewed Mr. Wisner’s proposed response to the Department of Administration’s request for information related to primary mission-essential functions during the government shut-down from March 23 to April 3, 2020. Staff will be on paid administrative leave except to work remotely to process license applications, affiliation changes, renewal of expired licenses, and to review any complaints that allege violations subject to emergency adjudicative procedures.
The Commission reviewed Mr. Wisner’s response to the Governor’s Office related to licensing and regulation needs including upcoming license expiration dates and deadlines for documents required for pending license applications.

The Commission reviewed a report of the number of pre-license and continuing education courses offered by classroom and distance education. Schools were notified to submit a new course application if the delivery method of a classroom course is changed to a live webinar or other distance education format. Pearson VUE exam centers are closed until at least April 16, 2020.

A decision regarding whether to cancel the April 20, 2020 Commission meeting or hold it by conference call will be made by April 10, 2020. The Commission approved giving applicants the option of conducting hearings on that date by video conference or postponing to a future meeting.

Mr. Vaught made the motion, seconded by Mr. Schlosser, to adjourn the meeting. Motion carried unanimously.

Mr. Wuertz adjourned the meeting at 11:38 a.m.
Attest: ______________________   _______________________________

Errol Wuertz, Chairperson

Bryon Schlosser, Vice-Chairperson

Connie O’Brien

Joe Vaught

Sue Wenger
COMPLIANCE REPORT
MEMO

DATE: April 20, 2020

TO: Kansas Real Estate Commission Members

FROM: Wendy Alkire, Compliance Director

Compliance Department Status Report

Complaint Status

- Legal case review summary
  - Oldest Complaint Pending Review (non-litigation)—03/23/17
    - After the April 15, 2020 I-Team meeting, the oldest complaint pending review will be dated 03/29/19
  - Oldest Disciplinary File Pending KREC Staff Review—06/20/18
  - Oldest Disciplinary File Pending AG Review—None pending

Compliance Review/Audit

- Compliance Reviews complete in FY 2020 (as of 04/09/2020) 239
  - An additional 154 brokers were contacted but had no transaction records to review. See attached chart for FY comparison.

- Approximate turn-around time for Compliance Review results 14 months

- Commission Directive follow up reviews – Summary attached (Dated 04/09/20)
  - Follow up compliance reviews complete FY 2020 37
  - Percentage with repeat violations 22%
  - Percentage with no violations or minor violations 51%

Miscellaneous

- Anonymous Complaint Chart (Attached)

- Compliance Course:
  - March 25, 2020 course cancelled
  - Next scheduled date: July 21, 2020
Brokers Reporting Zero Transactions

FY 17 = 38%

Brokers Contacted: 507
Reviews Complete: 314
Zero Transactions Reported: 193

FY 18 = 36%

Brokers Contacted: 494
Reviews Complete: 318
Zero Transactions Reported: 176

FY 19 = 28%

Brokers Contacted: 550
Reviews Complete: 397
Zero Transactions Reported: 153

FY 20 = 39% YTD (04/09/2020)

Brokers Contacted: 393
Reviews Complete: 239
Zero Transactions Reported: 154
<table>
<thead>
<tr>
<th>Month</th>
<th>Total number</th>
<th>No violations</th>
<th>Minor only</th>
<th>Same</th>
<th>New major</th>
<th>No transactions</th>
<th>In Progress</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2019</td>
<td>10</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>August 2019</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>September 2019</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td></td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>October 2019</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
<td>new broker</td>
</tr>
<tr>
<td>November 2019</td>
<td>9</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3 Need review</td>
</tr>
<tr>
<td>December 2019</td>
<td>13</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td></td>
<td>2</td>
<td>5</td>
<td>3 needs reviewed &amp; 2 brokerage closed</td>
</tr>
<tr>
<td>January 2020</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td>3</td>
<td>3</td>
<td>1 new broker and 2 need review</td>
</tr>
<tr>
<td>February 2020</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>March 2020</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>April 2020</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td>3 need assigned</td>
</tr>
<tr>
<td>May 2020</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 2020</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>62</strong></td>
<td><strong>10</strong></td>
<td><strong>9</strong></td>
<td><strong>8</strong></td>
<td><strong>5</strong></td>
<td><strong>5</strong></td>
<td><strong>9</strong></td>
<td><strong>16</strong></td>
</tr>
</tbody>
</table>

Completed 37
Repeat violation 8
Percentage 0.216216216
Anonymous Complaints Data

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total Complaints</th>
<th>Anonymous Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 17 = 10%</td>
<td>200</td>
<td>20</td>
</tr>
<tr>
<td>FY 18 = 13%</td>
<td>224</td>
<td>29</td>
</tr>
<tr>
<td>FY 19 = 13%</td>
<td>243</td>
<td>31</td>
</tr>
<tr>
<td>FY 20 = 8% YTD (04/09/2020)</td>
<td>198</td>
<td>16</td>
</tr>
</tbody>
</table>
LICENSEE AND EDUCATION REPORTS
Extending professional and occupational licenses during the COVID-19 pandemic

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration’s top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with more than 460,000 cases of the illness and more than 16,400 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(l)(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, there have been over 1,106 positive cases of COVID-19 in Kansas, spread among 57 counties and 42 deaths as a result of the illness;

WHEREAS, to protect state employees and mitigate the spread of COVID-19, many state employees, including those working on licensing and permitting operations, have been placed on administrative leave or are working from home; and

WHEREAS, suspension of certain state statutes and administrative rules is necessary to reduce the risk of further exposure and spread of COVID-19 and to assist with mitigation efforts during the COVID-19 public health emergency;
WHEREAS, the State of Kansas, its boards, commissions, divisions, or other licensing authorities regularly renew thousands of occupational and professional licenses, certificates, permits, and registrations on a regular basis;

WHEREAS, the escalating COVID-19 public health emergency presents significant—sometimes insurmountable—obstacles for the holders of licenses, certificates, permits, or registrations to renew or satisfy certain requirements for renewal during the public health emergency;

WHEREAS, the holders of licenses, certificates, permits, and registrations provide significant services within Kansas, and the unavailability of such services would hamper efforts to address the escalating COVID-19 public health emergency;

WHEREAS, the holders of licenses, certificates, permits, and registrations who provide medical care perform functions that are necessary to effectively respond to and mitigate the COVID-19 pandemic; and

WHEREAS, in these challenging times this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans, including ensuring that Kansans who provide important services can continue their work without regulatory interruptions.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to slow the spread of COVID-19, I hereby direct and order the following:

1. All state agencies shall extend renewal deadlines for any occupational or professional license, certificate, permit, or registration issued by a state agency or any board, commission, division, or other licensing authority within a state agency to any individual, business, or organization, that was in good standing as of March 12, 2020, and that has expired or will expire during the State of Disaster Emergency, and such licenses, certificates, permits, and registrations shall remain valid until 90 days following the termination of the State of Disaster Emergency.

   a. This order does not apply to or affect licenses already addressed by Executive Order No. 20-12 (“Drivers’ license and vehicle registration and regulation during public health emergency”).

2. All state agencies shall extend renewal deadlines for any organization, establishment, facility, shop, or premises license, certificate, permit, or registration issued by a state agency or any board, commission, division or other licensing authority within a state agency to any individual, business, or organization that was in good standing as of March 12, 2020, and that has expired or will expire during the State of Disaster Emergency, and such licenses, certificates, permits, and registrations shall remain valid until 90 days following the termination of the State of Disaster Emergency.

3. All state agencies shall waive any late, delinquent, penalty, or expiration fees associated with any license, certificate, permit, or registration referred to in Sections 1 and 2 above.

EO 20-19
4. All state agencies shall extend the deadlines for any continuing education requirements mandated by any state agency or any board, commission, division or other licensing authority until 90 days following the termination of the State of Disaster Emergency.

5. For purposes of this Order, a "state agency" has the meaning set forth in K.S.A. 75-3701, and reports to or is otherwise located within an executive office under the control of the Governor.

6. For purposes of this Order, "in good standing" shall include a license, certificate, permit, or registration that is subject to probation, or non-disciplinary conditions, limitations, or restrictions, but shall not include a license, certificate, permit, or registration that is revoked, cancelled, surrendered, or suspended. Any license, certificate, permit, or registration that is subject to disciplinary conditions, limitations, or restrictions shall remain subject to such conditions, limitations or restrictions.

7. This order does not affect licensing for attorneys.

8. This order should be read in conjunction with previous executive orders responding to the COVID-19 pandemic. Any contrary provision in previous executive orders, except Executive Order 20-12 ("Drivers' license and vehicle registration and regulation during public health emergency"), is superseded by this order.

This document shall be filed with the Secretary of State as Executive Order No. 20-19. It shall become effective immediately and remain in force until rescinded or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

DATED 4.9.2020

Secretary of State

Assistant Secretary of State

FILED APR 9 2020
SCOTT SCHWAB
SECRETARY OF STATE
Below are the number of pre-license and continuing education courses approved to be offered remotely and in the classroom.

### Pre-License

<table>
<thead>
<tr>
<th>Course</th>
<th>Distance Ed.</th>
<th>Classroom</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of Real Estate</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>Kansas Practice Course</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Kansas Real Estate Broker Fundamentals</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Kansas Law Course</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Kansas Real Estate Broker Management</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>20</strong></td>
<td><strong>25</strong></td>
</tr>
</tbody>
</table>

### Continuing Education

<table>
<thead>
<tr>
<th>Course</th>
<th>Distance Ed.</th>
<th>Classroom</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required Salesperson and Broker Core</td>
<td>19</td>
<td>17</td>
</tr>
<tr>
<td>Required Broker Core</td>
<td>30</td>
<td>23</td>
</tr>
<tr>
<td>elective courses</td>
<td>214</td>
<td>342</td>
</tr>
<tr>
<td>appraisal/elective courses</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>267</strong></td>
<td><strong>387</strong></td>
</tr>
</tbody>
</table>

Below are the number of licensees with upcoming expiration dates.

- **April 30, 2020** is the expire date for 512 licenses and end of grace period for 210 to late renew
- **June 30, 2020** is the expire date for 1,722 licensees and end of grace period for 170 to late renew

There are 286 pending license applications (70 salespersons, 31 brokers, 185 fingerprints only).

Fingerprinting and testing are currently unavailable, but the timeframe for submitting application information remains the same.

**KBI/FBI Reports:** Valid for six months from the report date to the date the completed application is received by KREC. K.A.R. 86-1-20(b)
**PreLicense**: Principles of real estate for salespersons and Kansas real estate fundamentals for brokers are valid for **12 months** from course completion to license exam date. K.S.A. 58-3046a(a) and (b)

Kansas real estate practice course for salespersons, Kansas real estate management course for brokers, and Kansas law course for brokers applying based on a licensure in another state are valid for **six months** from course completion date to the date the completed application is received by KREC. K.S.A. 58-3046a(c), (d) and (e)

**Exam**: Valid for **six months** from exam date to date the completed application is received by KREC. If state and national portions were passed on different dates, clock starts from the earliest date. K.S.A. 58-3039(f)(3)

**Certification of License from Another State**: Valid for **six months** from the issue date to the date the completed application is received by KREC. K.A.R. 86-1-20(a)
COVID-19 US/Canada PPC Testing Availability Update 4-6

Dear Client,

Our number one priority continues to be centered around protecting the health and safety of our testing candidates and employees. This concern is what initiated the temporary closure of Pearson Professional Centers (PPCs) in the U.S. and Canada from March 16 through April 15.

On March 22, with your understanding and support, we announced our effort to open a subset of PPCs on a limited basis (in both hours and days) across the United States and Canada in order to deliver medical and first responder personnel exams to support the immediate COVID-19 medical personnel shortage, which we began delivering on March 25. Our ability to offer this testing capability is only possible through our brave and dedicated test center administrator volunteers operating with social distancing measures and additional hygienic and disinfecting processes.

We also recognized in our communication that the threat of the virus may not be contained by our intended reopen date of April 16.

Unfortunately, as we’re all aware, the virus and its impact has not yet been contained. Government guidance and various restrictions including social distancing measures continue to be extended as our communities continue to battle to “flatten the curve”.

Based on the latest health and safety information, continued government guidance, and the availability of our team of test center volunteers, we’re taking the following actions related to our PPC operations in the U.S. and Canada effective April 16:

- We will extend the temporary suspension of exam deliveries in the US and Canada through April 30.
  - This decision continues to be grounded in keeping our candidates, employees, and communities healthy and safe amidst this unprecedented pandemic.
  - Candidates scheduled through April 16-April 30 will receive a cancellation/reschedule notice.
  - Candidate appointment availability begins on May 1.

- We will also continue delivering medical and first responder personnel exams on a limited basis through April 30.
  - Our guiding principal remains focused on our civic and social responsibility to do our part to support the national and global response to the COVID-19 crisis.

All of our efforts align directly to our goal of reopening our PPCs and resuming operations as soon as possible. Unfortunately, the current conditions do not allow for us to further broaden our
operations or additional program deliveries quite yet. We review the possibility of resuming PPC operations every day, and are currently targeting May 1, but will adjust availability prior if it becomes possible.

- Adjusting our PPCs’ operations for the medical and public health personnel has provided a valuable staging environment for us as we work to bring all PPCs to what is a new readiness state ensuring we can safely accommodate wider PPC openings for more programs to resume testing.
- Our ability to do so continues to be dependent upon government guidance, staff availability, social distancing requirements, and sufficient cleaning and disinfectant supplies to mitigate health and safety risks.
- Due to the distancing restrictions in place across our PPCs, we’ll be operating at approximately 50% seat capacity, resulting in constrained appointment availability.

This situation continues to be incredibly fast-paced and fluid, with new information emerging daily. We will continue to update you as new developments emerge and as we’re able to expand or deploy additional testing solutions. Remember, we also update our Coronavirus Update Page frequently, including any changes or additions to policies in specific regions.

Thank you for your understanding and patience as we do what we can to help fight the spread of COVID-19.

Please don’t hesitate to reach out to me on my cell.

Hoping you and your loved ones remain safe through this critical time.

Sincerely,
Barb

Barbara Sprindis
Program Manager, Regulatory Services
Pearson VUE, 3 Bala Plaza West, Suite 300, Bala Cynwyd, PA 19004
Email: Barbara.Sprindis@pearson.com
Direct Dial: 610-617-5076, Cell: 610-453-0213
Total Pending Applications: 286

Salespersons 70
Awaiting:

- KBI/FBI Reports 40
- Application 5
- Kansas Practice Course 21

Brokers 31
Awaiting:

- KBI/FBI Reports 21
- Application 4

Pre License 185
Awaiting:

- KBI/FBI Reports 41
- Applications 144
<table>
<thead>
<tr>
<th>Status</th>
<th>Lic Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Active/Inactive/Suspended</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Active</td>
<td>Broker</td>
<td>3,546</td>
</tr>
<tr>
<td>Active</td>
<td>Salesperson</td>
<td>12,689</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>16,235</td>
</tr>
<tr>
<td>Inactive</td>
<td>Broker</td>
<td>58</td>
</tr>
<tr>
<td>Inactive</td>
<td>Salesperson</td>
<td>646</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>704</td>
</tr>
<tr>
<td>Suspended</td>
<td>Broker</td>
<td>1</td>
</tr>
<tr>
<td>Suspended</td>
<td>Salesperson</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>8</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td></td>
<td>16,947</td>
</tr>
<tr>
<td><strong>Expired</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expired Renewable - A</td>
<td>Broker</td>
<td>71</td>
</tr>
<tr>
<td>Expired Renewable - A</td>
<td>Salesperson</td>
<td>461</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>532</td>
</tr>
<tr>
<td>Expired Renewable - I</td>
<td>Broker</td>
<td>35</td>
</tr>
<tr>
<td>Expired Renewable - I</td>
<td>Salesperson</td>
<td>315</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>350</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td></td>
<td>882</td>
</tr>
<tr>
<td><strong>Open</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open</td>
<td>Branch Office</td>
<td>192</td>
</tr>
<tr>
<td>Open</td>
<td>Company</td>
<td>2,300</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>2,492</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td></td>
<td>2,492</td>
</tr>
</tbody>
</table>
## Approved Courses from 3/1/20 to 3/31/20

<table>
<thead>
<tr>
<th>Course Type</th>
<th>Course #</th>
<th>Course title</th>
<th>Hours</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Kansas Association of Realtors</strong></td>
<td>Elective</td>
<td>E18114 Prison Orange Isn't My Color</td>
<td>3</td>
<td>Active</td>
</tr>
<tr>
<td></td>
<td>Elective</td>
<td>E18115 Beyond the Transaction</td>
<td>3</td>
<td>Active</td>
</tr>
<tr>
<td></td>
<td>Elective</td>
<td>E18116 The Ethical and Lawful Use of Media</td>
<td>3</td>
<td>Active</td>
</tr>
<tr>
<td><strong>Kansas Real Estate School</strong></td>
<td>Elective</td>
<td>P18113 Principles of Real Estate Course</td>
<td>30</td>
<td>Active</td>
</tr>
<tr>
<td><strong>ReeceNichols Training</strong></td>
<td>Appraisal (Optional)</td>
<td>A18110 Appraisals: Policies, Practices</td>
<td>3</td>
<td>Active</td>
</tr>
<tr>
<td><strong>Residential Real Estate Council</strong></td>
<td>Elective</td>
<td>E18109 Generational Marketing: Innovative Strategies Across All Generations - RS 142</td>
<td>8</td>
<td>Active</td>
</tr>
<tr>
<td></td>
<td>Elective</td>
<td>E18111 Power Up on Smart Home Technology (live-virtual class)</td>
<td>8</td>
<td>Active</td>
</tr>
<tr>
<td></td>
<td>Elective</td>
<td>E18112 Generational Marketing: Innovative Strategies Across All Generations (virtual)</td>
<td>8</td>
<td>Active</td>
</tr>
<tr>
<td><strong>Society of Industrial and Office REALTORS (SIOR)</strong></td>
<td>Elective</td>
<td>E18108 2020 TransACT 360</td>
<td>4</td>
<td>Active</td>
</tr>
</tbody>
</table>
## Exam Performance Summary by Fiscal Year (FY16-FY20)

| Fiscal Year | First Time Takers | | Repeat Takers | | Overall Statistics |
|-------------|-------------------|-------------------|-------------------|-------------------|
|             | Total Exams | Total Pass | Pass Rate | Total Fail | Fail Rate | Total Exams | Total Pass | Pass Rate | Total Fail | Fail Rate | Total Exams | Total Pass | Pass Rate | Total Fail | Fail Rate |
| **FY2016**  |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |
| Broker      | 126        | 100        | 79%        | 26         | 21%        | 196        | 121        | 62%        | 75         | 38%        |             |             |             |             |             |             |
| Salesperson | 1,672      | 1,218      | 73%        | 454        | 27%        | 2,358      | 1,621      | 69%        | 737        | 31%        |             |             |             |             |             |             |
| Total       | 1,798      | 1,318      | 73%        | 480        | 27%        | 2,554      | 1,742      | 68%        | 812        | 32%        |             |             |             |             |             |             |
| **FY2017**  |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |
| Broker      | 172        | 143        | 83%        | 29         | 17%        | 232        | 175        | 75%        | 57         | 25%        |             |             |             |             |             |             |
| Salesperson | 1,907      | 1,369      | 72%        | 538        | 28%        | 2,777      | 1,851      | 68%        | 926        | 33%        |             |             |             |             |             |             |
| Total       | 2,079      | 1,512      | 73%        | 567        | 27%        | 3,009      | 2,026      | 67%        | 983        | 33%        |             |             |             |             |             |             |
| **FY2018**  |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |
| Broker      | 208        | 172        | 83%        | 36         | 17%        | 272        | 209        | 77%        | 63         | 23%        |             |             |             |             |             |             |
| Salesperson | 1,952      | 1,401      | 72%        | 551        | 28%        | 2,881      | 1,879      | 65%        | 1,002      | 35%        |             |             |             |             |             |             |
| Total       | 2,160      | 1,573      | 73%        | 587        | 27%        | 3,153      | 2,088      | 66%        | 1,065      | 34%        |             |             |             |             |             |             |
| **FY2019**  |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |
| Broker      | 209        | 150        | 72%        | 59         | 28%        | 310        | 205        | 66%        | 105        | 34%        |             |             |             |             |             |             |
| Salesperson | 1,857      | 1,340      | 72%        | 527        | 28%        | 2,845      | 1,797      | 63%        | 1,048      | 37%        |             |             |             |             |             |             |
| Total       | 2,076      | 1,490      | 72%        | 586        | 28%        | 3,155      | 2,022      | 63%        | 1,153      | 37%        |             |             |             |             |             |             |
| **FY2020**  |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |             |
| Broker      | 188        | 137        | 73%        | 51         | 27%        | 273        | 193        | 71%        | 80         | 29%        |             |             |             |             |             |             |
| Salesperson | 1,316      | 948        | 72%        | 368        | 28%        | 1,918      | 1,266      | 66%        | 652        | 34%        |             |             |             |             |             |             |
| Total       | 1,504      | 1,085      | 72%        | 419        | 28%        | 2,191      | 1,459      | 67%        | 732        | 33%        |             |             |             |             |             |             |
### Kansas Broker

<table>
<thead>
<tr>
<th>School Name</th>
<th>Total Exams</th>
<th>First Time Takers</th>
<th>Repeat Takers</th>
<th>Overall Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total Pass Rate</td>
<td>Total Fail Rate</td>
<td></td>
</tr>
<tr>
<td>Career Education Systems - Wichita</td>
<td>26</td>
<td>23 88%</td>
<td>3 12%</td>
<td>33 28 85% 5 15%</td>
</tr>
<tr>
<td>Career Education Systems - Kansas City</td>
<td>45</td>
<td>37 82%</td>
<td>8 18%</td>
<td>54 45 83% 9 17%</td>
</tr>
<tr>
<td>Waiver – Equivalent Requirements Met</td>
<td>46</td>
<td>34 74%</td>
<td>12 26%</td>
<td>70 51 73% 19 27%</td>
</tr>
<tr>
<td>Career Education Systems - Online</td>
<td>38</td>
<td>26 68%</td>
<td>12 32%</td>
<td>56 39 70% 17 30%</td>
</tr>
<tr>
<td>Lowry School of Real Estate</td>
<td>23</td>
<td>14 61%</td>
<td>9 39%</td>
<td>38 22 58% 16 42%</td>
</tr>
<tr>
<td>Kansas Association of REALTORS</td>
<td>7</td>
<td>3 43%</td>
<td>4 57%</td>
<td>19 8 42% 11 58%</td>
</tr>
<tr>
<td>Total</td>
<td>185</td>
<td>137 74%</td>
<td>48 26%</td>
<td>270 193 71% 77 29%</td>
</tr>
</tbody>
</table>

### Kansas Salesperson

<table>
<thead>
<tr>
<th>School Name</th>
<th>Total Exams</th>
<th>First Time Takers</th>
<th>Repeat Takers</th>
<th>Overall Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total Pass Rate</td>
<td>Total Fail Rate</td>
<td></td>
</tr>
<tr>
<td>Pro Real Estate Class</td>
<td>1</td>
<td>1 100%</td>
<td>0 0%</td>
<td>1 1 100% 0 0%</td>
</tr>
<tr>
<td>PDH Academy</td>
<td>6</td>
<td>6 100%</td>
<td>0 0%</td>
<td>9 8 89% 1 11%</td>
</tr>
<tr>
<td>Waiver – Equivalent Requirements Met</td>
<td>326</td>
<td>289 90%</td>
<td>37 10%</td>
<td>390 338 87% 52 13%</td>
</tr>
<tr>
<td>Real Estate Prep School</td>
<td>6</td>
<td>5 83%</td>
<td>1 17%</td>
<td>6 5 83% 1 17%</td>
</tr>
<tr>
<td>Career Education Systems – Online</td>
<td>134</td>
<td>95 71%</td>
<td>39 29%</td>
<td>195 132 68% 63 32%</td>
</tr>
<tr>
<td>Career Education Systems – Kansas City</td>
<td>253</td>
<td>176 70%</td>
<td>77 30%</td>
<td>328 220 67% 108 33%</td>
</tr>
<tr>
<td>Lowry School of Real Estate</td>
<td>33</td>
<td>23 70%</td>
<td>10 30%</td>
<td>48 32 67% 16 33%</td>
</tr>
<tr>
<td>The CE Shop</td>
<td>52</td>
<td>38 73%</td>
<td>14 27%</td>
<td>75 50 67% 25 33%</td>
</tr>
<tr>
<td>ReeceNicholsTraining</td>
<td>49</td>
<td>34 69%</td>
<td>15 31%</td>
<td>65 43 66% 22 34%</td>
</tr>
<tr>
<td>American School of Real Estate Express, LLC</td>
<td>83</td>
<td>64 77%</td>
<td>19 23%</td>
<td>133 84 63% 49 37%</td>
</tr>
<tr>
<td>Career Education Systems – Wichita</td>
<td>135</td>
<td>89 66%</td>
<td>46 34%</td>
<td>223 130 58% 93 42%</td>
</tr>
<tr>
<td>Training Partners</td>
<td>25</td>
<td>14 56%</td>
<td>11 44%</td>
<td>43 25 58% 18 42%</td>
</tr>
<tr>
<td>Kansas Real Estate School</td>
<td>37</td>
<td>22 59%</td>
<td>15 41%</td>
<td>69 38 55% 31 45%</td>
</tr>
<tr>
<td>Kansas Association of REALTORS</td>
<td>138</td>
<td>76 55%</td>
<td>62 45%</td>
<td>251 127 51% 124 49%</td>
</tr>
<tr>
<td>Kansas City Kansas Community College</td>
<td>1</td>
<td>0 0%</td>
<td>1 100%</td>
<td>2 1 50% 1 50%</td>
</tr>
<tr>
<td>RSCK School of Real Estate</td>
<td>9</td>
<td>5 56%</td>
<td>4 44%</td>
<td>31 14 45% 17 55%</td>
</tr>
<tr>
<td>Career Academy of Real Estate (Penfed Realty)</td>
<td>23</td>
<td>9 39%</td>
<td>14 61%</td>
<td>42 15 36% 27 64%</td>
</tr>
<tr>
<td>KW Real Estate School</td>
<td>1</td>
<td>0 0%</td>
<td>1 100%</td>
<td>1 0 0% 1 100%</td>
</tr>
<tr>
<td>Total</td>
<td>1,312</td>
<td>946 72%</td>
<td>366 28%</td>
<td>1,912 1,263 66% 649 34%</td>
</tr>
</tbody>
</table>
DIRECTOR’S REPORT
MEMO

DATE:        April 20, 2020
TO:          Kansas Real Estate Commission Members
FROM:        Erik Wisner, Executive Director
RE:          Director’s Report

Fiscal

• The real estate fee fund balance as of March 31, 2020 is $989,522 up $74,203 from July 1, 2019.
  o Revenue. Real estate fee fund receipts for FY20 are $887,588. This is 1% higher than original estimates.
  o Expenditures. Real estate fee fund expenditures for FY20 are $810,084. This is 3% or $36,745 less than original estimates.

• Background investigation fee fund receipts for FY20 are $86,215. This is 5% lower than estimates. The balance as of March 2020 is $9,887.21 down $11,453 from July 1, 2019. March 2020 revenue was down $22,000 from the revenue collected in March 2019.

• Real estate recovery fund receipts for FY20 are $4,590. The balance as of March 31, 2020 is $265,863 down $25,342 from July 1, 2019.

• Budget (SB 66). KREC’s budget was approved by the Legislature and signed by the Governor. Enhancement requests for the Special Litigation Reserve Fund and technical adjustments for the FY21 pay plan were included. The Legislature will review the Governor’s proposed 2.5% pay increase for FY21 when the Legislature returns for the veto session.

Legislative and Policy Issues

• The legislature recessed on March 21 until April 27 due to the Covid-19 outbreak. It’s unclear if they will return on that date or at all this session.

• SB 42 (Rebates). The bill would define “rebate” to mean the return of all or a portion of any real estate purchase price, whether by cash or cash equivalent (which could include gift cards, prepaid credit cards, or other similar items of value) which is agreed to between a licensee and client or customer before closing and is contingent upon the transaction closing. The bill passed the Senate and was heard in the House Commerce Labor and Economic Development committee on March 12. Committee took no action before recess.
• **HB 2506.** The bill amends the occupational and professional licensing standards for regulatory agencies to receive and review applications from any individual who has established or plans to establish residency in Kansas. If current processes are less favorable to an applicant or there are no current processes, the agency is required to issue a license if the applicant has a valid license in another state with substantially similar licensing requirements. The bill allows for the agency to consider certain disqualifying items including criminal convictions and disciplinary actions in another state. In the event the licensing body determines that the license held by the applicant is not substantially equivalent to the licensing body may issue a temporary permit for a limited period of time to allow the applicant to practice while completing any specific requirements not required in the state in which the applicant was licensed, unless the licensing body determines, based on specific grounds, that issuing a temporary permit would jeopardize the safety of the public. The House and Senate committee both had hearings on this bill. The House passed a substitute bill that added language that: 1) defines completed application, which would exclude time to complete criminal background checks; 2) changes the time period for approving applications from 10 days to 15 days for military servicemembers and spouses and from 10 days to 45 days for all other applicants; and 3) clarified intent to establish residency shall be proven by a military order to a post in the state; an executed mortgage or lease or proof of the closing of a real estate purchase agreement for the applicants residence. The revised bill did not have another hearing in the Senate Commerce committee. The current bill is on General Orders in the Senate.

• See bill tracking list for other relevant legislation.

**Dates and Events**

• 2020 Commission Meeting Dates (Third Monday of the month unless *italicized*)
  - May 18
  - July 20
  - August 24
  - October 19
  - December 7

• Staff Presentations (Mar. – Apr 2020)
  - Pittsburg Realtors Presentation, Mar. 13, Pittsburg (Wendy) postponed until May 28 webinar
  - Sunflower Assoc. of Realtors, Mar. 19, Topeka (Wendy) postponed until May 28 webinar
  - KCRAR Broker Forum, Mar. 27, Leawood (Erik) postponed
  - Lawrence and South Central Dates pending

• Other Events
  - Apr. 29-May 2, 2020—ARELLO Mid-Year Meeting (Savannah, GA) Web Conference
  - June 3-5, 2020—ARELLO Dist. 2/3 Regional Meeting—KREC Host (Kansas City, MO)
  - Sept. 23-26, 2020—ARELLO Annual Meeting (Montreal, CA)
  - Oct. 5-7, 2020—KAR Annual Meeting (Topeka, KS)
  - Nov. 11-16, 2020--NAR Annual Meeting (San Diego, CA)
## Real Estate Commission (Fund 2721 - Fee Fund)
### Cash Balance Report

For the Year Ending 6/30/2020
Cash at Beginning of Year

$915,319.74

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licenses Business</td>
<td>$873,289.50</td>
</tr>
<tr>
<td>Recovery of Current FY Exp</td>
<td>-</td>
</tr>
<tr>
<td>Clerical Services</td>
<td>$548.00</td>
</tr>
<tr>
<td>Fines/Penalties/Forfeitures</td>
<td>$13,750.64</td>
</tr>
<tr>
<td>Other Nonrevenue Receipts</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td><strong>$887,588.14</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$550,718.68</td>
</tr>
<tr>
<td>Contractual Services</td>
<td>$256,928.97</td>
</tr>
<tr>
<td>Commodities</td>
<td>$2,421.22</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$15.00</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURES</strong></td>
<td><strong>$810,083.87</strong></td>
</tr>
</tbody>
</table>

Less Acct. Pay 191.10
Less Payroll Sharp -
Less FY19 Expenditures (3,972.56)

**Ending Cash Balance**

$989,042.55

## Cash Balance Report (Fund 2721 - Hospitality)

For the Year Ending 6/30/2020
Cash at Beginning of Year

$1,000.00

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$-</td>
</tr>
</tbody>
</table>
Real Estate Commission (Fund 2721) REVENUE

<table>
<thead>
<tr>
<th>Revenue</th>
<th>ESTIMATE</th>
<th>July '19</th>
<th>August '19</th>
<th>September '19</th>
<th>October '19</th>
<th>November '19</th>
<th>December '19</th>
<th>January '20</th>
<th>February '20</th>
<th>March '20</th>
<th>April '20</th>
<th>May '20</th>
<th>June '20</th>
<th>YTD</th>
</tr>
</thead>
<tbody>
<tr>
<td>42110</td>
<td>Licenses Business</td>
<td>$ 1,159,400.00</td>
<td>$ 3,041.10</td>
<td>$ 3,041.10</td>
<td>$ 33,386.10</td>
<td>$ 37,359.90</td>
<td>$ 332,955.90</td>
<td>$ 25,825.50</td>
<td>$ 161,487.00</td>
<td>$ 69,696.00</td>
<td>$ 52,209.00</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>42200</td>
<td>AC Activation Fee</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>27.00</td>
<td>4,158.00</td>
<td>567.00</td>
<td>4,077.00</td>
<td>5,724.00</td>
<td>2,443.50</td>
<td>1,795.50</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>42300</td>
<td>OB Orig BR Licenses</td>
<td>$ 630.00</td>
<td>$ 3,270.00</td>
<td>$ 1,890.00</td>
<td>$ 5,827.50</td>
<td>$ 427.50</td>
<td>$ 6,840.00</td>
<td>$ 12,555.00</td>
<td>$ 945.00</td>
<td>$ 630.00</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 33,051.00</td>
</tr>
<tr>
<td>42400</td>
<td>BF Broker Renewal Fees</td>
<td>$ 450.00</td>
<td>$ 4,212.50</td>
<td>$ 9,225.00</td>
<td>$ 49,612.50</td>
<td>$ 2,025.00</td>
<td>$ 21,150.00</td>
<td>$ 18,450.00</td>
<td>$ 13,500.00</td>
<td>$ 9,562.50</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 128,187.50</td>
</tr>
<tr>
<td>42500</td>
<td>SF Slp Renewal Fees</td>
<td>$ 562.50</td>
<td>$ 13,737.50</td>
<td>$ 16,087.50</td>
<td>$ 173,340.00</td>
<td>$ 16,290.00</td>
<td>$ 82,562.50</td>
<td>$ 72,932.50</td>
<td>$ 32,265.00</td>
<td>$ 26,986.50</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 433,754.00</td>
</tr>
<tr>
<td>42600</td>
<td>LF Late Ren Fees</td>
<td>- $</td>
<td>$ 3,890.00</td>
<td>$ 2,070.00</td>
<td>$ 7,695.00</td>
<td>$ 360.00</td>
<td>$ 5,265.00</td>
<td>$ 8,370.00</td>
<td>$ 1,980.00</td>
<td>$ 2,880.00</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 32,510.00</td>
</tr>
<tr>
<td>42700</td>
<td>TR Transfer Fee</td>
<td>$ 81.00</td>
<td>$ 666.00</td>
<td>$ 621.00</td>
<td>$ 1,552.50</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>42800</td>
<td>MSIC (AC,CF/DP,NC/OR/IR,CC/OO,BC)</td>
<td>- $</td>
<td>$ 747.50</td>
<td>$ 731.50</td>
<td>$ 6,709.50</td>
<td>$ 180.00</td>
<td>$ 2,124.00</td>
<td>$ 4,113.00</td>
<td>$ 1,062.00</td>
<td>$ 74.50</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 16,430.00</td>
</tr>
<tr>
<td>42900</td>
<td>Refunds</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>43000</td>
<td>Clerical Services</td>
<td>$ 2,000.00</td>
<td>- $</td>
<td>$ 15.00</td>
<td>$ 30.00</td>
<td>$ 207.00</td>
<td>- $</td>
<td>$ 75.00</td>
<td>$ 60.00</td>
<td>$ 116.00</td>
<td>$ 45.00</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>45400</td>
<td>Fines/Penalties/Forfeitures</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 798.75</td>
<td>$ 254.38</td>
<td>$ 1,124.38</td>
<td>$ 1,352.50</td>
<td>$ 1,945.00</td>
<td>$ 1,041.88</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>469010</td>
<td>Recovery of Prior FY Exp</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>469090</td>
<td>Other Nonrevenue Receipts</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
</tr>
<tr>
<td>Gross Revenue</td>
<td>$ 1,174,900.00</td>
<td>$ 3,221.10</td>
<td>$ 34,522.35</td>
<td>$ 38,089.90</td>
<td>$ 336,864.15</td>
<td>$ 28,409.88</td>
<td>$ 162,688.38</td>
<td>$ 158,741.50</td>
<td>$ 71,757.00</td>
<td>$ 53,295.88</td>
<td>- $</td>
<td>- $</td>
<td>- $</td>
<td>$ 887,588.14</td>
</tr>
</tbody>
</table>

Real Estate Commission (Fund 1000) 10% to SGF

<table>
<thead>
<tr>
<th>Revenue</th>
<th>For the Year Ending: 06/30/2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>42110</td>
<td>Licenses Business</td>
</tr>
<tr>
<td>45400</td>
<td>Fines/Penalties/Forfeitures</td>
</tr>
<tr>
<td>Gross Revenue</td>
<td>$ 100,000.00</td>
</tr>
</tbody>
</table>

Income Statement

For the Year Ending: 06/30/2020
### Real Estate Commission (Fund 2721) OFFICIAL HOSPITALITY

#### Income Statement For the Year Ending: 06/30/2020

<table>
<thead>
<tr>
<th>Jul '19</th>
<th>Aug '19</th>
<th>Sep '19</th>
<th>Oct '19</th>
<th>Nov '19</th>
<th>Dec '19</th>
<th>Jan '20</th>
<th>Feb '20</th>
<th>Mar '20</th>
<th>Apr '20</th>
<th>May '20</th>
<th>June '20</th>
<th>FY21</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

| Appropriated Balance as of 7/1/2019 | $1,000.00 |

<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages (51000)</td>
<td>$751,169</td>
</tr>
<tr>
<td>Communication (52000)</td>
<td>$24,280</td>
</tr>
<tr>
<td>Other Freight and Exp (52100)</td>
<td>$637,837</td>
</tr>
<tr>
<td>Printing and Advertising (52300)</td>
<td>$500</td>
</tr>
<tr>
<td>Rent (53000)</td>
<td>$46,922</td>
</tr>
<tr>
<td>Repair and Serv Equip (54000)</td>
<td>$580</td>
</tr>
<tr>
<td>Travel &amp; Subsistence (57100)</td>
<td>$50,441</td>
</tr>
<tr>
<td>Fees - Other Services (52600)</td>
<td>$161,899</td>
</tr>
<tr>
<td>Fees - Professional Services (51700)</td>
<td>$83,596</td>
</tr>
<tr>
<td>Other Contractual Services (52800)</td>
<td>$3,626</td>
</tr>
<tr>
<td>Total Contractual Services</td>
<td>$371,885</td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>$1,130,505</td>
</tr>
</tbody>
</table>

| Total Revenue | $1,506,980.66 |
| Income Statement | 38%, 25% |

#### Appropriated Balance as of 7/1/2019

| Appropriated Balance as of 7/1/2019 | $1,000.00 |

| Total Revenue | $1,506,980.66 |
| Income Statement | 38%, 25% |
# Real Estate Commission (Fund 2722)
## Cash Balance Report

### For the Year Ending 6/30/2020

**Cash at Beginning of Year**: $21,339.89

### Revenue

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Nonrevenue Receipts</td>
<td>$86,215.00</td>
</tr>
</tbody>
</table>

**TOTAL REVENUE**: $86,215.00

### Expenditures

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$-</td>
</tr>
<tr>
<td>Contractual Services</td>
<td>$97,667.68</td>
</tr>
<tr>
<td>Commodities</td>
<td>$-</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$-</td>
</tr>
</tbody>
</table>

**TOTAL EXPENDITURES**: $97,667.68

Less FY18 Items $-  
Less Accounts Payable $-  
Less Payroll SHARP $-  
Less Transfer $-

### Ending Cash Balance

**Ending Cash Balance**: $9,887.21
## Real Estate Commission (Fund 7368)
### Cash Balance Report

For the Year Ending 6/30/2020
Cash at Beginning of Year

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash at Beginning of Year</td>
<td>$291,204.97</td>
</tr>
</tbody>
</table>

### Revenue

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Daily Balance Interest</td>
<td>$3,089.69</td>
</tr>
<tr>
<td>Other Nonrevenue Receipts</td>
<td>-</td>
</tr>
<tr>
<td>Recovery of Prior FY Exp</td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td>$4,589.69</td>
</tr>
</tbody>
</table>

### Expenditures

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Wages</td>
<td>$27,864.93</td>
</tr>
<tr>
<td>Contractual Services</td>
<td>$443.00</td>
</tr>
<tr>
<td>Commodities</td>
<td>-</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURES</strong></td>
<td>$28,307.93</td>
</tr>
</tbody>
</table>

Less FY19 Items
- $1,623.60

Less Accounts Payable
- $-

Less Payroll SHARP
- $-

Less Transfer
- $-

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ending Cash Balance</strong></td>
<td>$265,863.13</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$25,341.84</td>
</tr>
</tbody>
</table>


On behalf of the Kansas Real Estate Commission, thank you for the opportunity to offer proponent testimony on SB 42.

SB 42 would amend the Kansas Real Estate Brokers’ and Salespersons’ License Act to provide a definition of a rebate. The bill defines “rebate” as the return of all or part of the purchase price of real estate, whether by cash or cash equivalent, that is promised or agreed to by a licensee and a client or customer before closing and is contingent on the transaction closing. A rebate would also include the return of all or part of any commission or compensation paid to a licensee in any transaction that has as its purpose the purchase of real estate at a price different from the price specified in the closing statement. For the purposes of defining "rebate," "cash equivalent" means gift cards, prepaid credit cards and any other item with a value equal to a specific amount of money that can be used in the same manner as cash.

K.S.A. 2018 Supp. 58-3062 states that: (a) No licensee, whether acting as an agent, transaction broker or a principal, shall…. (3) Accept, give or charge any rebate or undisclosed commission or (4) Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or 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 Kansas or out-of-state licensee.

The longstanding Kansas law that prohibits offering against rebates was put in place for two primary reasons.

1. To discourage buyers and sellers from inflating the contract price so the seller could rebate a portion of the selling price to the buyer after closing. Such schemes were used to misrepresent to lenders the true amount of the down payment by buyer in order to get a higher loan to value ratio than what lenders were led to believe by the contract terms.

2. To keep Kansas licensees on an equal playing field, and to reduce misrepresentations by out-of-state brokerages over which we have no authority to regulate. Allowing out-of-state licensees to offer rebates to Kansas consumers promotes their use of advertising tactics that are unlawful for Kansas licensees to perform.

By way of background, in August 2016, the Commission rescinded a guidance document that allowed for a gift card to be provided by a licensee to a client in a transaction if the value of the gift card did not exceed 0.5% of the purchase price of the property as shown on the closing statement. The Commission rescinded the guidance document because it directly conflicted with current law that prohibits licensees from offering rebates in real estate transactions. This resulted in questions from licensees regarding what constituted a prohibited rebate.

To provide clear legal parameters, the Commission proposed a regulation to define rebates. The language in the proposed regulation is nearly identical to the proposed definition of rebate on pg. 3, lines 1-10 of SB 42. The Commission solicited input from the industry and discussed various drafts of the regulation during Commission meetings between August 2016 and February 2017. In October 2017, the Commission tabled consideration of the regulation indefinitely because the Commission could not come to a compromise between interested parties.
The Commission decided to seek an Attorney General’s opinion to get an independent opinion on whether a referral programs that provided gift cards to principals in a transaction violated the provisions of Kansas law with respect to providing unlawful rebates in real estate transactions. The Attorney General’s opinion is attached as pg. 3 to this testimony.

The AG’s opinion concluded that a rebate is something that is returned to a purchaser out of the purchase price of goods to accomplish a reduction of the purchase price. It further concluded that the conveyance of the gift card would violate current law if it is intended to reduce the amount paid by the referred client as the broker's commission or fee or the real property's purchase price.

The Commission feels that the definition proposed in SB 42 provides legal clarity to licensees and the public on what is an unlawful rebate and is supported by the AG’s opinion. The Commission thanks you for the opportunity to provide comments on SB 42 and respectfully request approval of the amendments proposed in the bill.
December 12, 2018

ATTORNEY GENERAL OPINION NO. 2018-17

Erik Wisner, Executive Director
Kansas Real Estate Commission
Jayhawk Tower, Suite 404
700 S.W. Jackson
Topeka, KS 66603-3785

Re: Personal and Real Property—Real Estate Brokers and Salespersons; Licensing—Prohibited Acts; Rebate; Referral Fee: Gift Certificate

Synopsis: A licensee does not violate K.S.A. 2018 Supp. 58-3062(a)(3) or (4) when a portion of the commission or fee paid to the licensee is used to purchase a gift card that is conveyed to the licensee’s client, provided the proceeds of the gift card do not reduce the amount of commission, fee or purchase price paid by the licensee’s client. Cited herein: K.S.A. 40-966; 40-2403; K.S.A. 2018 Supp. 40-2404; K.S.A. 40-3513; K.S.A. 2018 Supp. 58-3034; 58-3035; 58-3062; K.S.A. 65-1516; 65-2837; L. 2008, Ch. 155, § 5; L. 2004, Ch. 180, § 6; L. 1995, Ch. 252, § 20; L. 1991, Ch. 153, § 5; L. 1989, Ch. 167, § 7; L. 1980, Ch. 164, § 29.

Dear Mr. Wisner:

On behalf of the Kansas Real Estate Commission, you request our opinion regarding whether a licensee’s participation in a particular referral scenario would constitute accepting or giving a rebate or paying a referral fee in violation of K.S.A. 2018 Supp. 58-3062(a)(3) or (4). You set out the scenario as follows:
A Kansas real estate licensee has entered into an agreement with an out-of-state company, which holds a corporate real estate license in another state, to be included in that company’s referral network. As part of the referral agreement, the licensee agrees to pay the company a percentage of the licensee’s commission from each referral that results in a closed sales transaction. The out-of-state company keeps a portion of that payment and forwards the rest to another company, which also holds a corporate real estate license in another state. The second company uses those funds to provide a gift card to the licensee’s referred client upon closing. The amount of the gift card depends on the purchase price of the property; the greater the purchase price, the greater the amount of the gift card. The gift card is redeemable at hundreds of vendors but is not a universally-accepted form of payment such as cash. Because of their respective business relationships with the referral company, both the referred client and the Kansas licensee know the client will receive a gift card from the affiliated company if the transaction closes.¹

The Real Estate Brokers’ and Salespersons’ License Act² (Act) provides for the licensure and regulation of brokers and salespersons who, for compensation, engage in the business of buying, selling, exchanging or leasing real estate.³ Prohibited activities are set forth in K.S.A. 2018 Supp. 58-3062. The statute provides, in part:

(a) No licensee,⁴ whether acting as an agent, transaction broker or a principal, shall:


(3) Accept, give or charge any rebate or undisclosed commission.

(4) Pay a referral fee to a person who is properly licensed as a broker or salesperson in Kansas or 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 Kansas or out-of-state licensee.⁵

In the scenario presented, the issue is whether conveyance of the gift card to the referred client is payment of a “rebate” to the referred client of any commission, fee or purchase price paid by the referred client.

¹ Eric Wisner, Correspondence, February 19, 2018.
² K.S.A. 58-3034 et seq.
³ See K.S.A. 2018 Supp. 58-3035(c), (f), (k) and (o).
⁴ “Licensee” means any person licensed under this act as a broker or salesperson.” K.S.A. 2018 Supp. 58-3035(k).
The prohibition against accepting, giving or charging any rebate or undisclosed commission has been in existence since the inception of the Act. The provision precluding payment of a referral fee that results in the payment of a rebate was added nine years later. The Act, however, has never defined "rebate." In determining the meaning of "rebate," we follow the rules of statutory construction.

"Rebate" is defined as: “a) to give back (part of an amount paid) b) to make a deduction from (a bill)" and constitutes “1. [a] return of part of a payment, serving as a discount or reduction. 2. [a]n amount of money that is paid back when someone has overpaid." The Wisconsin Court of Appeals applied the definition from Black's Law Dictionary when it determined that the words 'rebates,' 'refunds,' and 'discounts' mean essentially the same thing – a reduction or credit that is tied to the price of the good or service being purchased by the recipient of the reduction or credit." "To be a 'discount,' the 'payment or allowance' must be a reduction from the price that would be paid if the 'discount' were not given." "A rebate is something that is returned to a purchaser out of the purchase price of goods to accomplish a reduction of the purchase price." Payment of a portion of the price, even though unknown by the purchaser, has also been found to be a rebate. Therefore, conveyance of the gift card in the scenario described above would violate K.S.A. 2018 Supp. 58-3062(a)(3) and (4)

---

7 See L. 1989, Ch. 167, § 7(a)(4). See also L. 1996, Ch. 252, § 20(a); L. 2008, Ch. 155, § 5.
8 Univ. of Kansas Hospital Authority v. Bd. of County Comm'rs of the Unified Gov't of Wyandotte County/Kansas City, 301 Kan. 993, 998-99 (2015) (internal citations and quotation marks omitted).
9 Webster's New World College Dictionary 1211 (5th ed. 2016).
12 Id. at 862.
14 McGuire v. American Family Mutual Ins. Co., 448 Fed.Appx. 801 (10th Cir. 2011) (unpublished opinion) (insurance agent paid portion of annual premium on term life insurance policy unbeknown to insured; constituted an unfair method of competition or an unfair or deceptive act or practice in the business of insurance under K.S.A. 40-2403 and 40-2404(8)).
if it is a reduction of the amount paid by the referred client as the broker’s commission or fee or the real property’s purchase price.

In the scenario presented, there is no indication that the gift card may be applied towards the payment of the broker’s commission or fee or the real property’s purchase price. Under such circumstances, there is no reduction in the amount of commission, fee or purchase price paid by the referred client. Since the commission, fee or purchase price is not reduced, there is no rebate in violation of K.S.A. 58-3062(a)(3) or (4).

We note that a provision precluding the “[o]ffer[ing] or giv[ing] of prizes, gifts or gratuities which are contingent upon a client’s listing, purchasing or leasing property” was included in the original Act.\textsuperscript{15} In 1991, the provision was amended to state, “No licensee . . . shall: . . . (17) Offer or give prizes, gifts or gratuities that are contingent upon an agency agreement or the sale, purchase or lease of real estate.”\textsuperscript{16} The prohibition against conferring prizes, gifts or gratuities “demonstrate[d] a clear expression of public policy by a Legislature committed to outlawing any form of prize, gift or gratuity by a real estate broker as an inducement to attract clients.”\textsuperscript{17} The scenario presented by the Kansas Real Estate Commission would likely have violated these provisions. The statutory prohibition of offering or giving prizes, gifts or gratuities, however, was repealed in 2004.\textsuperscript{18} Courts generally presume that when the Legislature revises an existing law, it intends to make a substantive change.\textsuperscript{19}

Further evidence of such a change is found in legislative acts pertaining to other professions that include similar restrictions regarding the payment of rebates.\textsuperscript{20}

\textsuperscript{15} See L. 1980, Ch. 164, § 29(a)(12).
\textsuperscript{16} L. 1991, Ch. 163, § 5(a).
\textsuperscript{17} Attorney General Opinion No. 98-53.
\textsuperscript{18} L. 2004, Ch. 180, § 6.
\textsuperscript{20} See, e.g., K.S.A. 40-966 (fire and casualty insurance; “No insurer or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow to give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing.”); K.S.A. 2018 Supp. 40-2404 (insurance agents; “The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance: . . . (8) Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.”); K.S.A. 40-3513
As is the situation with the Real Estate Brokers’ and Salespersons’ License Act, none of the acts includes a definition of “rebate.” Unlike the Real Estate Brokers’ and Salespersons’ License Act, the prohibitions in those acts are not limited to the payment of rebates, but include prohibitions against offering gifts, prizes and other inducements. 21 “[W]hen legislative intent is in question, we can presume that when the legislature expressly includes specific terms, it intends to exclude any items not expressly included in the specific list.” 22

The Legislature has shown that it is able to preclude licensees from engaging in conduct as set forth in the scenario. The provisions that would preclude such conduct are not currently included in the Act. A licensee does not violate K.S.A. 2018 Supp. 58-3062(a)(3) or (4) when a portion of the commission or fee paid to the licensee is used to purchase a gift card that is conveyed to the licensee’s client, provided the proceeds of the gift card do not reduce the amount of commission, fee or purchase price paid by the licensee’s client.

Sincerely,

Derek Schmidt
Attorney General

Richard D. Smith
Assistant Attorney General

DS:AA:RDS:sb

---

21 See, supra, footnote 20.
KANSAS REAL ESTATE COMMISSION
JAYHAWK TOWER
700 SW JACKSON STREET, SUITE 404
TOPEKA, KS 66603-3785

Governor Jeff Colyer, M.D.
Erik Wisner, Executive Director

February 19, 2018

Kansas Attorney General Derek Schmidt
120 SW 10th Ave, 2nd Floor,
Topeka, KS 66612-1597

Dear Attorney General Schmidt:

I write to you on behalf of the Kansas Real Estate Commission, which requests an Attorney General Opinion regarding whether certain real estate practices are in violation of the Kansas Real Estate Brokers’ and Salespersons’ License Act (“Act”), K.S.A. 58-3034 et seq. Specifically, we seek your opinion on the following scenario:

A Kansas real estate licensee has entered into an agreement with an out-of-state company, which holds a corporate real estate license in another state, to be included in that company’s referral network. As part of the referral agreement, the licensee agrees to pay the company a percentage of the licensee’s commission from each referral that results in a closed sales transaction. The out-of-state company keeps a portion of that payment and forwards the rest to another company, which also holds a corporate real estate license in another state. The second company uses those funds to provide a gift card to the licensee’s referred client upon closing. The amount of the gift card depends on the purchase price of the property; the greater the purchase price, the greater the amount of the gift card. The gift card is redeemable at hundreds of vendors but is not a universally-accepted form of payment such as cash. Because of their respective business relationships with the referral company, both the referred client and the Kansas licensee know the client will receive a gift card from the affiliated company if the transaction closes.

Our question is as follows: in the above scenario, does the Kansas licensee violate K.S.A. 2017 Supp. 58-3062(a)(3) or (a)(4) by paying a percentage of each referral sale to the out-of-state company?

To aid in your analysis, we note the term “rebate” as used in K.S.A. 2017 Supp. 58-3062(a)(3) and (a)(4) is not defined in the Act or in the Commission’s regulations. Our research indicates that according to the Merriam-Webster Dictionary, the ordinary meaning of “rebate” is “a return of part of a payment.” It has been suggested that the gift card described in the scenario above is an unlawful rebate because it is contingent on the transaction closing and therefore not simply a gift, and because it is based on the purchase price of the property and therefore intended to be a return of money used to purchase the property. It has also been suggested that the gift card is not a rebate because it is a conditional gift and it cannot be used in the same manner as cash. The Commission does not have a formal position on the issue, but it is concerned that this type of arrangement would violate Kansas law.
SENATE BILL No. 42

By Committee on Commerce

AN ACT concerning real estate brokers and salespersons; relating to the definitions of rebate and interest for purposes of real estate transactions; amending K.S.A. 2018 Supp. 58-3035 and repealing the existing section.

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

Section 1. K.S.A. 2018 Supp. 58-3035 is hereby amended to read as follows: 58-3035. As used in this act, unless the context otherwise requires:

(a) "Act" means the real estate brokers' and salespersons' license act.

(b) "Advance listing fee" means any fee charged for services related to promoting the sale or lease of real estate and paid in advance of the rendering of such services, including any fees charged for listing, advertising or offering for sale or lease any real estate, but excluding any fees paid solely for advertisement or for listing in a publication issued for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the listing.

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

(d) "Branch broker" means an individual who has a broker's license and who has been designated to supervise a branch office and the activities of salespersons and associate brokers assigned to the branch office.

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

(f) "Broker" means an individual, other than a salesperson, who advertises or represents that such individual engages in the business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:

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

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

(3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.
(4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.

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

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

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

(8) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.

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

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

(g) "Commission" means the Kansas real estate commission.

(h) "Exchange" means a type of sale or purchase of real estate.

(i) "Interest" means: (1) Having any type of ownership in the real estate involved in the transaction; or (2) an officer, member, partner or shareholder of any entity that owns such the real estate involved in the transaction, excluding an ownership interest of less than 5% in a publicly traded entity.

(j) "Lease" means rent or lease for nonresidential use.

(k) "Licensee" means any person licensed under this act as a broker or salesperson.

(l) (1) "Office" means any permanent location where one or more licensees regularly conduct real estate business as described in subsection (f) or a location that is held out as an office.

(2) "Office" does not mean a model home office in a new home subdivision if the real estate transaction files are maintained in the primary office or branch office.

(m) "Primary office" means a supervising broker's principal place of business for each company created or established by the broker.

(n) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests, and rights of way and easements acquired for the purpose of constructing roadways, pipelines, conduits, wires and facilities related to these types of improvement projects for private and public utilities, municipalities, federal and state governments, or any political subdivision. For purpose of this act, any rights of redemption are considered to be an interest in real estate.
(o) "Rebate" means the return of all or part of the purchase price of real estate, whether by cash or cash equivalent, that is promised or agreed to by a licensee and a client or customer before closing and is contingent on the transaction closing. "Rebate" includes the return of all or part of any commission or compensation paid to a licensee in any transaction that has as its purpose the purchase of real estate at a price different from the price specified in the closing statement. For the purposes of defining "rebate," "cash equivalent" means gift cards, prepaid credit cards and any other item with a value equal to a specific amount of money that can be used in the same manner as cash.

(p) "Salesperson" means an individual, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (f).

(q) "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 the office and all of whom are licensed pursuant to subsection (b) of K.S.A. 58-3042(b), 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. 2018 Supp. 58-3035 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.
Brief*

SB 42 would define “rebate” for purposes of the Real Estate Brokers’ and Salespersons’ License Act (Act) to mean the return of all or a portion of any real estate purchase price, whether by cash or cash equivalent (which could include gift cards, prepaid credit cards, or other similar items of value) which is agreed to between a licensee and client or customer before closing and is contingent upon the transaction closing. A rebate also would include the return of all or part of a licensee’s commission or compensation to a client that would have the purpose of affecting the price specified in the closing statement. Under continuing law, the Act prohibits the use of rebates in a real estate transaction. The bill also would clarify the definition of “interest,” as that term is used in the Act, to mean a property interest in the real estate involved in the transaction.

Background

The bill was introduced by the Senate Committee on Commerce during the 2019 Session. In the Senate Committee hearing on February 12, 2019, representatives from the Kansas Real Estate Commission (Commission), the Kansas Association of Realtors (Realtors), and Cartus Corporation spoke in favor of the bill. The Chairperson of the Commission expressed concern the Federal Trade Commission could sue the State over alleged antitrust

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org
violations regarding the prohibition on rebates. After determining the Commission had insufficient authority to define a rebate, it was determined a legislative solution could be necessary. On February 18, 2020, a representative of the Realtors provided additional testimony in favor of the bill, suggesting an alternative approach if needed.

No neutral or opponent testimony was provided.

The Senate Committee amended the bill by updating a statutory reference.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Commission indicates the bill would have no fiscal effect on its operations.
AN ACT concerning occupational regulation; relating to occupational licenses for certain applicants; amending K.S.A. 2019 Supp. 48-3406 and repealing the existing section.

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

Section 1. K.S.A. 2019 Supp. 48-3406 is hereby amended to read as follows: 48-3406. (a) For the purposes of this section:

(1) "Applicant" means an individual who is a military spouse, military servicemember or an individual who has established or intends to establish residency in this state. "Applicant" with respect to law enforcement certification by the Kansas commission on peace officers' standards and training means an applicant who has met the employment requirement pursuant to K.S.A. 74-5605(a), and amendments thereto.

(2) "Complete application" means the licensing body has received all forms, fees, documentation and any other information required or requested by the licensing body for the purpose of evaluating the application, consistent with this section and the rules and regulations adopted by the licensing body pursuant to this section {including proof that the applicant has established or intends to establish residency}. If the licensing body has received all such forms, fees, documentation and any other information required or requested by the licensing body, an application shall be deemed to be a complete application even if the licensing body has not yet received a criminal background report from the Kansas bureau of investigation.

(3) "{Established or intends to establish residency" means the applicant has provided the licensing body with:

(A) Military orders to a post in this state;
(B) an executed mortgage or documentary proof of the closing of a real estate purchase agreement for the applicant's residence in this state; or
(C) an executed lease for the rental of a residence or apartment for the applicant in this state.

(4) }"Licensing body" means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized.
"Military servicemember" means a current member of the army, navy, marine corps, air force, air or army national guard of any state, coast guard or any branch of the military reserves of the United States; and a former member with an honorable discharge.

"Military spouse" means the spouse of an individual who is currently in active service in any branch of the armed forces of the United States.

"Private certification" means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization.

(b) Notwithstanding any other provision of law, any licensing body shall:

(1) upon submission of a complete application, issue a license, registration or certification to a nonresident military spouse applicant, so that the nonresident military spouse applicant may lawfully practice the person's occupation; and

(2) upon submission of a completed application within six months following release from military service, issue a license, registration or certification to a military servicemember with an honorable discharge so that the military servicemember may lawfully practice the military servicemember's occupation.

(c) A military servicemember with an honorable discharge or nonresident military spouse An applicant who holds a valid current license, registration or certification in another state, district or territory of the United States shall receive a license, registration or certification under subsection (b) of this section:

(1) If the applicant qualifies under the applicable Kansas licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then pursuant to applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state for the profession license, registration or certification within 60 15 days from the date a complete application was submitted if the applicant is a military servicemember or military spouse or within 45 days from the date a complete application was submitted for all other applicants; or

(2) if the applicant does not qualify under the applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state, or if the Kansas professional practice act does not have licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then the applicant shall receive a license, registration or certification as provided herein if, at the time of application, the military servicemember or nonresident military-
spouse applicant:

(A) Holds a valid current license, registration or certification in another state, district or territory of the United States with licensure, registration or certification requirements that the licensing body determines are substantially equivalent to those established by the licensing body of this state, or holds a certification issued by another state for practicing the occupation but this state requires an occupational license, and the licensing body determines that the certification requirements are substantially equivalent to the licensing requirements established by the licensing body of this state;

(B) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation of the license, certificate or registration, or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure, registration or certification denied or refused to practice an occupation for which the military servicemember or nonresident military spouse applicant seeks licensure, registration or certification;

(C) has not been disciplined by a licensing, registering, certifying or other credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing, registering, certifying or other credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in a Kansas practice act;

(D) does not have a disqualifying criminal record as determined by the licensing body of this state under Kansas law;

(E) provides proof of solvency, financial standing, bonding or insurance if required by the licensing body of this state, but only to the same extent as required of any applicant with similar credentials or experience;

(F) pays any fees required by the licensing body of this state; and

(G) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate.

Upon receiving such affidavit a complete application, the licensing body shall issue the license, registration or certification within 60 days from the date a complete application was submitted by a military servicemember or military spouse, or within 45 days from the date a complete application was submitted by an applicant who is not a military servicemember or military spouse, to the military servicemember or nonresident military spouse applicant on a probationary basis, but may
revoke the license, registration or certification at any time if the
information provided in the application is found to be false. Any
probationary license issued under this subsection to a military
servicemember or nonresident military spouse period shall not exceed six
months. Upon completion of the probationary period, the license,
certification or registration shall become a non-probatory license,
certification or registration.

(d) Any person applicant who has not been in the active practice of
the occupation during the two years preceding the application for which
the applicant seeks a license, registration or certification under subsections
(b) and (c) may be required to complete such additional testing, training,
mentoring, monitoring or continuing education as the Kansas licensing
body may deem necessary to establish the applicant's present ability to
practice with reasonable skill and safety in a manner that protects the
health, safety and welfare of the public, as provided by subsection (k).

(e) A nonresident military spouse. Upon submission of a complete
application, an applicant shall receive an occupational license,
certification or registration under subsection (b) based on the applicant's
work experience in another state, if the applicant:

(1) Worked in a state that does not use an occupational license,
certification or registration to regulate an occupation, but this state uses
an occupational license, registration or certification to regulate the
occupation;

(2) worked for at least three years in the occupation during the four
years immediately preceding the application; and

(3) satisfies the requirements of subsection (c)(2)(B) through (G).

(f) Upon submission of a complete application, an applicant shall
receive an occupational license, registration or certification under
subsection (b) based on the applicant's holding of a private certification
and work experience in another state, if the applicant:

(1) Holds a private certification and worked in a state that does not
use an occupational license or government certification to regulate an
occupation, but this state uses an occupational license or government
certification to regulate the occupation;

(2) worked for at least two years in the occupation;

(3) holds a current and valid private certification in the occupation;

(4) is held in good standing by the organization that issued the
private certification; and

(5) satisfies the requirements of subsection (c)(2)(B) through (G).

(g) An applicant licensed, registered or certified under this section
shall be entitled to the same rights and subject to the same obligations as
are provided by the licensing body for Kansas residents, except that
revocation or suspension of a nonresident military spouse's an applicant's
license, registration or certificate in the nonresident military spouse's applicant's state of residence or any jurisdiction in which the nonresident military spouse applicant held a license, registration or certificate shall automatically cause the same revocation or suspension of such nonresident military spouse's applicant's license, registration or certificate in Kansas. No hearing shall be granted to a nonresident military spouse an applicant where such nonresident military spouse's applicant's license, registration or certificate is subject to such automatic revocation or suspension, except for the purpose of establishing the fact of revocation or suspension of the nonresident military spouse's applicant's license, registration or certificate by the nonresident military spouse's applicant's state of residence.

(f) In the event the licensing body determines that the license, registration or certificate currently held by the military servicemember or nonresident military spouse an applicant under subsection (c)(2)(A) who is a nonresident military spouse or nonresident military servicemember is not substantially equivalent to those issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the military servicemember or nonresident military spouse applicant to lawfully practice the military servicemember's or nonresident military spouse's applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that was not required in the state, district or territory of the United States in which the military servicemember or nonresident military spouse applicant was licensed, registered, certified or otherwise credentialed.

(i) In the event the licensing body determines that the license, registration or certification currently held by an applicant under subsection (c)(2)(A) who is not a nonresident military spouse or nonresident military servicemember is not substantially equivalent to those issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the applicant to lawfully practice the applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that was not required in the state, district or territory of the United States in which the applicant was licensed, registered, certified or otherwise credentialed.

(j) In the event that the licensing body determines that the private certification or work experience currently held by the applicant under subsection (e) or (f) is not sufficient to establish the applicant's present ability to practice in a manner that protects the health, safety and welfare of the public, the applicant may be required to complete such additional testing, training, monitoring or continuing education as the licensing body deems necessary. The applicant shall be issued a temporary permit for a
limited period of time to allow the applicant to lawfully practice the
occupation while completing any specific requirements unless the
licensing body finds, based on specific grounds, that issuing a temporary
permit would jeopardize the health, safety and welfare of the public.

(k) Any testing, continuing education or training requirements
administered under subsection (d), (h), (i) or (j) shall be limited to Kansas
law that regulates the occupation and that are materially different from or
additional to the law of another state, or shall be limited to any materially
different or additional body of knowledge or skill required for the
occupational license, registration or certification in Kansas.

(l) A licensing body may grant licensure, registration, certification
or a temporary permit to any person who meets the requirements under
this section but was separated from such military service under less than
honorable conditions or with a general discharge under honorable
conditions.

(m) Nothing in this section shall be construed to apply in conflict
with or in a manner inconsistent with federal law or a multistate compact,
or a rule or regulation or a reciprocal or other applicable statutory
provision that would allow an applicant to receive a license. Nothing in
this section shall be construed as prohibiting a licensing body from
denying any application for licensure, registration or certification, or
declining to grant a temporary or probationary license, if the licensing
body determines that granting the application may endanger the health,
safety and welfare of the public.

(n) Each licensing body—may shall adopt rules and regulations
necessary to implement and carry out the provisions of this section.

(o) This section shall not apply to the practice of law or the
regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

(p) This section shall apply to all licensing bodies not excluded under
subsection (o), including, but not limited to:

1. The abstracters' board of examiners;
2. the board of accountancy;
3. the board of adult care home administrators;
4. the secretary for aging and disability services, with respect to
   K.S.A. 65-5901 et seq. and K.S.A. 65-6503 et seq., and amendments
   thereto;
5. the Kansas board of barbering;
6. the behavioral sciences regulatory board;
7. the Kansas state board of cosmetology;
8. the Kansas dental board;
9. the state board of education;
10. the Kansas board of examiners in fitting and dispensing of
    hearing instruments;
(11) the board of examiners in optometry;
(12) the state board of healing arts;
(13) the secretary of health and environment, with respect to K.S.A. 82a-1201 et seq., and amendments thereto;
(14) the commissioner of insurance, with respect to K.S.A. 40-241 and 40-4901 et seq., and amendments thereto;
(15) the state board of mortuary arts;
(16) the board of nursing;
(17) the state board of pharmacy;
(18) the Kansas real estate commission;
(19) the real estate appraisal board;
(20) the state board of technical professions; and
(21) the state board of veterinary examiners.

(q) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(r) Commencing July 1, 2020, each licensing body listed in subsection (p)(1) through (21) shall provide a report for the period of July 1 through June 30 to the director of legislative research by August 31 of each year; providing information requested by the director of legislative research to fulfill the requirements of this subsection. The director of legislative research shall develop the report format, prepare an analysis of the reports and submit and present the analysis to the office of the governor, the committee on commerce, labor and economic development of the house of representatives, the committee on commerce of the senate, the committee on appropriations of the house of representatives and the committee on ways and means of the senate by January 15 of the succeeding year. The director's report may provide any analysis the director deems useful and shall provide the following items, detailed by applicant type, including military servicemember, military spouse and non-military individual:

(1) The number of applications received under the provisions of this section;
(2) the number of applications granted under this section;
(3) the number of applications denied under this section;
(4) the average time between receipt of the application and completion of the application;
(5) the average time between receipt of a complete application and issuance of a license, certification or registration; and
(6) identification of applications submitted under this section where the issuance of credentials or another determination by the licensing body was not made within the time limitations pursuant to this section and the reasons for the failure to meet such time limitations.
All information shall be provided by the licensing body to the director of legislative research in a manner that maintains the confidentiality of all applicants and in aggregate form that does not permit identification of individual applicants.

Sec. 2. K.S.A. 2019 Supp. 48-3406 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.
Brief*

Sub. for HB 2506, as amended, would shorten the period of time required for various licensing bodies to issue registrations, certifications, and licenses (credentials) to allow a “military servicemember,” as that term would be redefined by the bill, and a “military spouse,” as that term is currently defined by law, to lawfully engage in their respective occupations in Kansas.

The bill also would expedite licensing bodies’ procedures for other individuals intending to live and work in Kansas. Licensing bodies would be required to issue the applicable credential to an “applicant,” as that term would be defined by the bill, if the applicant filed a “complete application,” as that term would be defined by the bill, which also would include proof of residency in Kansas or the intent to establish residency. An applicant would be required to meet one of the following conditions:

- If an applicant holds a valid current credential issued by another state, district, or territory of the United States and qualifies under the applicable Kansas law by endorsement, reinstatement, or reciprocity statutes, then the military servicemember or spouse would be issued with the appropriate credential within 15 days from the date of the submission of a completed application or within 45 days for all other applicants. Currently,

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org
military servicemembers and spouses may be issued their credentials within 60 days; or

- If an applicant does not qualify under the applicable Kansas law by endorsement, reinstatement, or reciprocity statutes, then the applicant would receive a probationary credential within the time periods specified above if that individual also:
  - Holds a valid current credential from another state, district, or territory of the United States that is substantially equivalent to the requirements in Kansas, which would be a change from current law that requires other states’ credential policies to be equivalent to Kansas;
  - Has not committed an act that in the other jurisdiction would be considered grounds for limitation, suspension, or revocation of the credential, which is a requirement of current law;
  - Has not been disciplined, under investigation, or required to give up credentials, which is a requirement of current law;
  - Does not have a criminal record;
  - Shows proof of solvency, bonding, or insurance as required by the licensing body;
  - Pays the applicable fees, which is a requirement of current law; and
  - Signs an affidavit stating the application is true and accurate, which is a requirement of current law.

The probationary period continues to be for six months, as currently provided by law. However, the bill would provide for the temporary credential to become permanent upon completion of the probationary period. The bill would allow applicants that have not worked in their occupation for the
preceding two years could be required by the licensing body to complete additional testing, training, monitoring, or continuing education. However, the bill would limit additional requirements to those matters that are materially different from or additional to Kansas law.

An applicant who meets the following conditions and requirements would be granted a six-month probationary occupational credential:

- Worked in an occupation that was not a regulated profession in the other state;
- Worked in the occupation for at least three of the four immediately preceding years;
- Has not committed an act that in the other jurisdiction would be considered grounds for limitation, suspension, or revocation of the credential, which is a requirement of current law;
- Has not been disciplined, under investigation, or required to give up credentials, which is a requirement of current law;
- Does not have a criminal record;
- Shows proof of solvency, bonding, or insurance as required by the licensing body;
- Pays the applicable fees, which is a requirement of current law; and
- Signs an affidavit stating the application is true and accurate, which is a requirement of current law.
An applicant who holds a “private certification,” as defined by the bill, would be granted a six-month probationary occupational credential if that individual would meet the following conditions and requirements:

- Holds a current and valid private certification and worked in a state that does not regulate the occupation;
- Worked for at least two years in the occupation;
- Is in good standing by the organization that issued the private certification;
- Has not been disciplined, under investigation, or required to give up credentials, which is a requirement of current law;
- Does not have a criminal record;
- Shows proof of solvency, bonding, or insurance as required by the licensing body;
- Pays the applicable fees, which is a requirement of current law; and
- Signs an affidavit stating the application is true and accurate, which is a requirement of current law.

If a licensing body would determine an applicant's private certification or work experience is insufficient to protect the health, safety, and welfare of the public, the individual would be issued a temporary permit for a limited time to practice the occupation while completing any specific requirements stipulated by the licensing body, unless the licensing body would find on specific grounds that issuing a credential would jeopardize the health, safety, and welfare of the public.
The bill would not be construed to conflict with federal law, multi-state compact, rule, regulation, reciprocal, or other statutory provision, or to prohibit a licensing body from denying a credential based upon the possible endangerment of the public health, safety, or welfare. The bill would require all proceedings to be conducted in accordance with the Kansas Administrative Procedure Act and would be reviewable under the Kansas Judicial Review Act.

The bill would apply to all licensing bodies in the executive branch, including, but not limited to the Abstracters’ Board of Examiners, the Board of Accountancy, the Board of Adult Care Home Administrators, the Secretary for Aging and Disabilities (with respect to KSA 65-5901, et seq., and KSA 65-6503, et seq.), the Kansas Board of Barbering, the Behavioral Sciences Regulatory Board, the Kansas State Board of Cosmetology, the Kansas Dental Board, the Kansas State Board of Education, the Kansas Board of Examiners in Fitting and Dispensing of Hearing Instruments, the Board of Examiners in Optometry, the State Board of Healing Arts, the Secretary of Health and Environment (with respect to KSA 82a-1201, et seq.), the Commissioner of Insurance (with respect to KSA 40-241 and 40-4901, et seq.), the State Board of Mortuary Arts, the Board of Nursing, the State Board of Pharmacy, the Kansas Real Estate Commission, the Real Estate Appraisal Board, the State Board of Technical Professions, and the State Board of Veterinary Examiners.

Starting on July 1, 2020, each licensing body listed in the bill would annually report information to the Director of Legislative Research (Director) by August 31, which would allow for the analysis of applications by applicant type (military servicemember, military spouse, and non-military) and the number of applications received, granted, and denied; the average time between receipt of the application and the completion of the application; the average time between receipt of a complete application to the issuance of a credential (temporary or permanent); and identification by category of applicant where the licensing body failed to meet the time limits specified in the bill and the reasons for the
failure. Licensing bodies would be required to provide the information in a manner that would maintain applicants’ confidentiality.

By January 15 of the succeeding year, the Director would report an analysis of the compilation to the Governor; the House Committee on Appropriations; the House Committee on Commerce, Labor and Economic Development; the Senate Committee on Commerce; and the Senate Committee on Ways and Means.

Background

The bill was introduced by Representative Croft, who spoke in favor of the bill in the House Committee on Commerce, Labor and Economic Development hearing. The Representative stated 60 years ago, approximately 1 out of 20 workers required some kind of government-issued credential. Today, an estimated 1 out of 4 requires a credential. The bill, according to the sponsor, would encourage new employment in Kansas. Representatives from Americans for Prosperity in Kansas, Greater Kansas City Chamber of Commerce, Kansas Chamber, Opportunity Solutions Project, and the Wichita Regional Chamber of Commerce also spoke in favor of the bill. Written-only proponent testimony was provided by representatives from the Fort Leavenworth Unified School District 207, Goldwater Institute, Institute for Justice, Kansas Policy Institute, National Federation of Independent Business—Kansas, and United States Automobile Association (USAA).

Opponent testimony was provided by the American Institute of Architects, the Kansas Commission on Peace Officer’s Standards and Training, Kansas Medical Society, Kansas State Board of Technical Professions, and State Board of Healing Arts, expressing concern the bill would place an excessive administrative burden on their respective operations that could adversely affect the health, safety, and welfare of the Kansas public by placing the burden of proof
on licensing bodies that out-of-state applicants were not qualified for their respective credentials. Written-only opponent testimony was provided by representatives of the Kansas Highway Patrol, Kansas Board of Examiners in Optometry, Kansas Optometric Association, and various law enforcement associations and other individuals.

Neutral testimony was provided by representatives from the Department of Commerce, Emergency Medical Services Board, Kansas Board of Cosmetology, Kansas State Department of Education, State Board of Nursing, and the State Board of Pharmacy, who identified various provisions of the bill that would be inconsistent with the agencies’ various credentialing frameworks. Written-only neutral testimony was provided by the Kansas Board of Accountancy, the Kansas Chiropractic Association, and the Kansas Real Estate Commission.

Prior to recommending a substitute bill, the House Committee amended the bill to:

- Clarify the definition of “applicant” as that term could apply to certain law enforcement personnel;
- Define “completed application,” which would exclude time to complete criminal background checks;
- Change the time period for applicants to receive credentials, from 10 days to 15 days for military servicemembers and spouses and from 10 days to 45 days for all other applicants; and
- Specify if an applicant is not qualified under Kansas law, then additional conditions and qualifications would need to be met.

The House Committee of the Whole amended the bill to further define “complete application” to include proof that an applicant has established or intends to establish residency in
Kansas, which could be met by the applicant providing the licensing body with one of the following:

- Military order to a post in the state;
- An executed mortgage or documentary proof of the closing of a real estate purchase agreement for the applicant’s residence; or
- An executed rental lease for the applicant’s residence.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the boards of Accountancy, Barbering, Cosmetology, and Examiners in Fitting and Dispensing of Hearing Instruments; and the departments of Aging and Disability Services, Education, Health and Environment, and Insurance indicate the legislation would not have a fiscal effect on their respective agencies. The Kansas Dental Board, and the boards of Technical Professions, Mortuary Arts, Examiners in Optometry, and Real Estate Appraisal each indicate the bill would affect their budgets, but the fiscal effects cannot be estimated. The following agencies identify the bill would increase expenditures in FY 2021 by the following estimated amounts.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Other Funds</th>
<th>FTE Positions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of Healing Arts</td>
<td>$606,695</td>
<td>8.0</td>
</tr>
<tr>
<td>Board of Pharmacy</td>
<td>$111,750</td>
<td>1.5</td>
</tr>
<tr>
<td>Real Estate Commission</td>
<td>$15,000</td>
<td>-</td>
</tr>
<tr>
<td>Board of Veterinary Examiners</td>
<td>$30,000</td>
<td>-</td>
</tr>
<tr>
<td>Board of Nursing</td>
<td>$110,000</td>
<td>2.0</td>
</tr>
<tr>
<td>Behavioral Science Regulatory Board</td>
<td>$86,400</td>
<td>2.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$959,845</strong></td>
<td><strong>13.5</strong></td>
</tr>
</tbody>
</table>

Any fiscal effect associated with the bill is not reflected in The FY 2021 Governor’s Budget Report.
<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Bill Sponsor</th>
<th>Bill Subject</th>
<th>Current Status</th>
<th>Last Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 42</td>
<td>Senate Commerce Committee</td>
<td>Amending the meaning of the terms &quot;rebate&quot; and &quot;interest&quot; as used in the real estate brokers' and salespersons' license act</td>
<td>In House Commerce, Labor and Economic Development</td>
<td>03/11/2020 - House</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Hearing in Commerce, Labor and Economic Development: Thursday, 3/12, 1:30 PM, Rm 112-N</td>
<td></td>
</tr>
<tr>
<td>SB 57</td>
<td>Mike Petersen, R-28th</td>
<td>Requiring review of information technology contracts by the joint committee on information technology</td>
<td>In Senate Ways and Means</td>
<td>03/18/2019 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Hearing in Ways and Means: Wednesday, 3/20, 10:30 AM, Rm 548-S</td>
<td></td>
</tr>
<tr>
<td>SB 66</td>
<td>Senate Financial Institutions and Insurance Committee</td>
<td>Exempting certain domestic insurers from filing enterprise risk reports</td>
<td>Approved by Governor</td>
<td>3/27/2020</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Published in the Kansas Register</td>
<td></td>
</tr>
<tr>
<td>SB 168</td>
<td>Senate Commerce Committee</td>
<td>Enacting the Kansas home inspectors professional competence and financial responsibility act</td>
<td>In Senate Commerce</td>
<td>02/20/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Final Action in Commerce: Friday, 2/21, 8:30 AM, Rm 548-S</td>
<td></td>
</tr>
<tr>
<td>SB 220</td>
<td>Senate Federal and State Affairs Committee</td>
<td>Licensure of professional occupations allowing certain persons with criminal or civil records that would otherwise disqualify such persons from licensure to receive a license; add state board of education to exempt agencies</td>
<td>In Senate Federal and State Affairs</td>
<td>01/29/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Hearing in Federal and State Affairs: Tuesday, 2/4, 10:30 AM, Rm 144-S</td>
<td></td>
</tr>
<tr>
<td>SB 244</td>
<td>Richard Hilderbrand, R-13th</td>
<td>Administrative rules and regulations shall sunset five years after adoption unless extension is approved by legislature</td>
<td>In Senate Ways and Means</td>
<td>01/22/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Hearing in Ways and Means: Monday, 1/27, 10:30 AM, Rm 548-S</td>
<td></td>
</tr>
<tr>
<td>SB 251</td>
<td>Rob Olson, R-23rd</td>
<td>Allow businesses to elect to file certain business reports with the secretary of state annually, biennially or triennially</td>
<td>In House Commerce, Labor and Economic Development</td>
<td>03/11/2020 - House</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Hearing in Commerce, Labor and Economic Development: Monday, 3/16, 1:30 PM, Rm 112-N</td>
<td></td>
</tr>
<tr>
<td>SB 370</td>
<td>Senate Assessment and Taxation Committee</td>
<td>Requiring the governor to submit biennial budget estimates for all agencies; requiring consensus revenue estimates for each of the ensuing two fiscal years</td>
<td>In Senate Ways and Means</td>
<td>02/07/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Referred to Ways and Means</td>
<td></td>
</tr>
<tr>
<td>SB 385</td>
<td>Senate Ways and Means Committee</td>
<td>Supplemental appropriations for FY 2020 and FY 2021 for various state agencies</td>
<td>In Senate Ways and Means</td>
<td>02/26/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Scheduled Hearing in Ways and Means: Wednesday, 3/4, 10:30 AM, Rm 548-S</td>
<td></td>
</tr>
<tr>
<td>Sub for SB 386</td>
<td>Senate Ways and Means Committee</td>
<td>Appropriations for FY 2020, FY 2021 and FY 2022 for various state agencies</td>
<td>In House Appropriations</td>
<td>03/19/2020 - House</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Referred to Appropriations</td>
<td></td>
</tr>
<tr>
<td>SB 391</td>
<td>Senate Federal and State Affairs Committee</td>
<td>Enacting the right to earn a living act to minimize unnecessary occupational licensing and regulation</td>
<td>In Senate Commerce</td>
<td>02/11/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Referred to Commerce</td>
<td></td>
</tr>
<tr>
<td>SB 434</td>
<td>Senate Assessment and Taxation Committee</td>
<td>Limiting fees for copying and staff time under the Kansas open records act and providing for waiver or reduction of such fees</td>
<td>In Senate Ethics, Elections and Local Government</td>
<td>02/14/2020 - Senate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Referred to Ethics, Elections and Local Government</td>
<td></td>
</tr>
<tr>
<td>SB 458</td>
<td>Senate Ways and Means Committee</td>
<td>Increasing the compensation of members of the state banking board</td>
<td>On General Orders in Senate</td>
<td>03/16/2020 - Senate</td>
</tr>
<tr>
<td>Bill Number</td>
<td>Bill Sponsor</td>
<td>Bill Subject</td>
<td>Current Status</td>
<td>Last Action</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>-------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| **HB 2219** | John Alcala, D-57th| Requiring bodies subject to the Kansas open meetings act to record proceedings and make the recordings available to the public | Committee Report recommending bill be passed as amended by Financial Institutions and Insurance | 02/13/2019 - House

Scheduled Hearing in Judiciary: Monday, 2/18, 3:30 PM, Rm 346-S |
| **HB 2453** | Bill Rhiley, R-80th| Creating the open borders for Kansas jobs act; recognizing professional licenses issued by other jurisdictions | 01/17/2020 - House                  | Referred to Commerce, Labor and Economic Development                                          |
| **HB 2500** | House Judiciary Committee | Amending the Kansas power of attorney act regarding the form of a power of attorney and the duties of third parties relying and acting on a power of attorney | In Senate Judiciary                  | 03/04/2020 - Senate

Scheduled Hearing in Judiciary: Thursday, 3/12, 10:30 AM, Rm 346-S |
| **Sub for HB 2506** | Chris Croft, R-8th | Expanding the military spouse and service member's expedited licensure law to all applicants who have established or intend to establish residency in Kansas | On General Orders in Senate          | 03/10/2020 - Senate

Committee Report recommending bill be passed by Commerce |
| **HB 2516** | House Rural Revitalization Committee | Enacting the first-time home buyer savings account act | In Senate Assessment and Taxation | 03/11/2020 - Senate

Scheduled Hearing in Assessment and Taxation: Tuesday, 3/17 (CANCELED) |
| **HB 2523** | House Judiciary Committee | Enacting the Kansas assistance animals in housing act | In House Judiciary                  | 01/30/2020 - House

Scheduled Hearing in Judiciary: Tuesday, 2/4, 3:30 PM, Rm 346-S |
| **HB 2594** | House Appropriations Committee | Supplemental appropriations for FY 2020 and FY 2021 for various state agencies | In House Appropriations              | 03/12/2020 - House

Scheduled Discussion & Action in Appropriations: Friday, 3/13, Adjourn. of House, Rm 112-N |
| **Sub for HB 2597** | House Appropriations Committee | Appropriations for FY 2020, 2021 and 2022 for various state agencies | On General Orders in House          | 03/16/2020 - House

Committee Report recommending substitute bill be passed by Appropriations |
| **HB 2600** | Jason Probst, D-102nd | All contract for deeds must be filed with the county register of deeds by the seller within 10 days after execution or such contract shall be deemed void | In House Local Government            | 02/12/2020 - House

Scheduled Hearing in Local Government: Wednesday, 2/19, 9:00 AM, Rm 218-N |
| **HB 2611** | Tom Cox, R-17th | Allowing certain criminal offenses to be expunged automatically | In House Judiciary                  | 02/12/2020 - House

Referred to Judiciary |