

SESSION OF 2004

SUPPLEMENTAL NOTE ON SENATE BILL NO. 404

As Amended by House Committee on
Commerce and Labor

Brief*

SB 404, as amended, concerns real estate brokers and salespersons. The bill allows the Real Estate Commission, when considering to grant or renew a license, to consider the conduct of the person which reflects on the person's honesty, trustworthiness, integrity, or competence to transact the business of real estate. The Commission also is allowed to take disciplinary action against a licensee if the licensee has committed a violation in another state and disciplinary action taken resulted in suspension, probation, or revocation of the licensee's real estate license in that state.

Further, the bill adds to the list of actions prohibited to licensees, whether acting as agent, transaction agent, or a principal payment of a commission or compensation to any person not licensed under the act for performing any activity for which a license is required under the act. The prohibition against offering gifts and gratuities to a principal in a real estate transaction is repealed. Sales persons or associate brokers also shall not pay another person for performing a licensed real estate activity, nor shall they failure to report to their appropriate supervisor that they are performing any activity requiring a license.

The Senate Committee on Financial Institutions and Insurance amendment removed the word "negatively" from the new provision allowing the Commission to consider the conduct of a licensee as it considers granting or renewing a license.

The House Committee on Commerce and Labor deleted the provision that dealt with a licensee who has been the subject of disciplinary action in another state that resulted in the suspension, probation, or revocation of any professional or occupational license or certification. Further, the committee inserted the word "Kansas" in the section dealing with license restrictions that would make the prohibition

*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>

regarding referral fees applicable in Kansas as well as other jurisdictions.

Background

SB 404 was requested by the Kansas Real Estate Commission, whose representative explained that the changes proposed are clean up to clarify the authority of the Commission and are derived from over two years' experience of the staff in drafting agency orders for licensure and disciplinary purposes.

The bill was supported by the Kansas Association of Realtors, whose representative commented that the repeal of the inducement language was originally intended to protect the consumer from the unscrupulous offering of such gifts and gratuities; however, today's real estate marketplace ensures that any offering is limited or economically not feasible, as they erode the profit a real estate transaction may yield.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill would have no fiscal effect.