

SESSION OF 2004

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 534**

As Amended by Senate Committee on  
Financial Institutions and Insurance

**Brief\***

SB 534 concerns certain commercial real estate transactions. The bill provides that, as a general rule, no licensee (real estate broker or salesperson) may enter into a contract with persons not also licensed by the Kansas Real Estate Commission to perform services that require a license under the Real Estate Brokers' and Salespersons' Licensing Act.

The bill exempts commercial real estate transactions from the general rule by allowing a Kansas branch broker or supervising broker to cooperate with and share commissions with a foreign licensee (a real estate licensee, in good standing of another state or country). Upon entering into a broker cooperation agreement, which must be filed with the Kansas Real Estate Commission, the foreign licensee is permitted to perform services with respect to commercial real estate that would ordinarily require a license.

The agreement between the Kansas branch broker or supervising broker and the foreign licensee requires the foreign licensee to:

- ! comply with Kansas law;
- ! submit to the jurisdiction of Kansas courts;
- ! give written consent to service of process to the Kansas Secretary of State;
- ! hold all escrow funds in Kansas in the trust account of the branch broker or supervising broker;
- ! describe how any compensation earned will be shared; and
- ! agree, along with the branch broker or supervising broker, to keep each other informed of all showings and negotiations, and to furnish copies of all documents related to any commercial real estate transaction.

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\*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>

The Senate Committee amendments substitute “branch broker or supervising broker” for the term licensee in New Section 2, and makes the provision for commercial real estate transactions a part of and supplemental to the Real Estate Brokers’ and Salespersons’ Licensing Act.

## **Background**

SB 534 was requested by the Kansas Association of Realtors, whose representatives explained that the commercial real estate marketplace is becoming increasingly interstate. Current law limits Kansas licensees to only transactions on a referral/referral fee basis. Passage of the bill will allow Kansas branch brokers and supervising brokers, within a regulatory structure, to participate in commercial co-broker real estate deals across the country. Amendments to the bill were proposed by the Kansas Real Estate Commission, also a proponent of the bill.

The fiscal note prepared by the Division of the Budget indicates the Kansas Real Estate Commission may anticipate a slight increase in the number of complaints filed if SB 534 becomes law. The Commission currently has 1.5 FTE investigator positions. If the workload increases because of a rise in complaints, the Commission might need to hire an additional investigator or real estate auditor. However, it is not possible to determine at this time whether the proposed legislation would have this effect.