

Senate Utilities Committee
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HB 2036

Mr. Chair and members of the committee, thank you for the opportunity to testify on this bill. I oppose this version and recommend amending SB 120 with the KEC substitutions, which are included in my testimony. HB 2036 in its current form is contrary to the KEC recommendation found in SB 120 which is to put the thermal efficiency standard process under the regulatory process of the KCC. It is also flawed in that it does not require the energy efficiency disclosure form to be made available upon request, pulling back from the current form requirement. The suggested changes to the disclosure form in 2036 other than the timing of disclosure issue are welcome improvements which should be incorporated in the form when revised by the KCC, if that regulatory process is chosen, or by the legislature if the process is unchanged.

SB 120

Substitute language for Sec.1 (c), p. 1, line 27:

standards for possible adoption by local units of government.

The argument that if the KCC adopts these standards and proposes them to cities and counties, the cities and counties are going to just adopt them because the KCC recommends them does not reflect the experience of code adoption by local entities. IF codes have been adopted in cities or counties, they are updated periodically (everywhere from every 3 years to once in 10-15 years) depending primarily on the recommendation of the local code officials and city/county administration. The opinion of the local code officials and building community/industry weigh very heavily in the deliberations. The KCC proposal would be considered and acted on in this context. I see no reason that the KCC would propose to local jurisdictions anything other than national consensus developed codes and standards which result from an extensive national process where the same code officials and builders have opportunity for input. Having a disclosure form which can be updated by the KCC which reflects current national codes and standards information versus having to go through a legislative process every year or several years is also an efficient and logical process.

Substitute language for Sec. 1, subsection (d), beginning p. 1, line 28 through line 29:

The state corporation commission shall adopt rules and regulations to implement the provisions of this section. The Governor shall appoint an advisory committee to assist in developing thermal efficiency standards. The advisory committee shall consist of:

- (1) one member to represent municipal building codes officials;
- (2) one member to represent the mechanical heating, ventilation and air conditioning contractors;

- (3) one member to represent energy rater certified by the Residential Energy Service Network (RESNET) and/or Energy Star;
- (4) one member to represent the factory built housing industry;
- (5) one member to represent the residential construction industry; and
- (6) one member to represent the real estate industry.

The fundamental question is whether the legislature or the KCC rules and regulatory process should adopt and recommend thermal energy efficiency standards for the state. Having it in the legislature means that every three years or so the issue will come up for review and action in the time pressure and political context of legislative action. Having it in the KCC means a calmer participatory process, with more time for input and discussion, negotiation, and resolution. This advisory committee makes more sense as a means to review and upgrade standards. This is the Kansas Energy Council recommendation. The involvement of the building industry if the process moves to the KCC is essential, recommended and welcomed.

Substitute language for Sec.2 (a), beginning p. 1, line 30 through p. 2, line 37:

Except as provided by subsection (b), the person building or selling a new residential structure shall disclose to the buyer or prospective buyer information regarding the thermal efficiency of the structure on a form prepared and disseminated by the state corporation commission. For a custom built residence, the completed disclosure form shall be presented to the buyer at any time upon request, but at least prior to the signing of a contract to purchase. For speculative built residences purchased before construction is completed, the completed disclosure form shall be presented to the buyer at any time upon request by the builder or realtor, but at least prior to the signing of a contract to purchase. For speculative built residences that are completed and suitable for occupancy but unsold, the completed disclosure form shall be presented to any prospective buyers by the builder and/or realtor when the residence is shown and at any other time upon request.

Buying a new house is likely to be the biggest, most complex and unique purchase a consumer may ever make. Paying for utility costs over the lifetime of the structure is directly affected by the components chosen and installed during construction. Providing information on the energy components early in the process will improve the knowledge of the consumer, provide opportunity for change to whatever features they desire, and increase the likelihood that they will make informed decisions which have personal, financial and societal benefits in terms of energy consumption.

The disclosure form has been a requirement since 2001 so Kansas builders should be very familiar with it and have generated it many times for the homes they build. So the basic energy efficiency component information that the builder typically uses or proposes should easily be made available at any time upon request. This would be regardless of the construction status of the house, and whether it is a custom or a speculative built house. The disclosure form should also be presented at least prior to the signing of a contract so the consumer is fully informed about the components and substantial facts they should consider prior to purchase. If the house is already complete the form should be ready and part of any showing or descriptive package about the house.

Providing information regarding the proposed thermal efficiency of a house as soon as possible in the home building process increases the likelihood of wise consumer choices about what they are purchasing and will be paying for in mortgage and utility costs. This proposed legislation does not present a burden to builders or realtors who are involved in this process and is in keeping with the expectation of full disclosure about a purchase decision which has significant personal and societal impacts.