

To: Senate Utilities Committee

From: Luke Bell, KAR Director of Governmental Relations

Date: February 13, 2007

Subject: **HB 2036** – Thermal Efficiency Disclosure Forms

The Kansas Association of REALTORS® (“KAR”) is a trade association representing over 10,000 real estate professionals in 35 local boards from every area of the state of Kansas. KAR has faithfully represented the interests of real estate professionals in the state of Kansas for over 85 years. KAR strongly supports **HB 2036**.

**HB 2036** would amend existing law regarding disclosure of the thermal efficiency of certain commercial, industrial and residential buildings. When **HB 2036** was originally introduced at the start of the legislative session, it simply updated the reference in the statute to the International Energy Conservation Code (IECC) from the 2003 to the recently-issued 2006 version. During the committee deliberations and floor action on this legislation, amendments were added which made several major changes to the underlying statute concerning thermal efficiency disclosures.

Throughout the whole process, the interested parties came together in a bi-partisan and cooperative manner to discuss ways in which the language in **HB 2036** could be amended to ensure that prospective buyers are provided with timely and useful information on the thermal efficiency of new residential structures. As a result, **HB 2036** makes several important changes to the thermal efficiency disclosure statute which will be a major step forward in promoting the energy efficiency of new residential dwellings and providing more information on energy efficiency to prospective buyers for their consideration during the home-buying process.

First, in section 2 on lines 31 and 32 of page 1, **HB 2036** was amended by the House to specify that the disclosure requirements applied only to single family residential structures or multi-family structures of four units or less. This amendment reinforces the intent behind the statute by clarifying that the disclosure of information concerning the energy efficiency of a residential structure is only provided on single family residential structures or multi-family structures of four units or less.

The standard nomenclature within the real estate industry to distinguish between residential and commercial properties is that residential structures typically include only single family residential structures or multi-family structures of four units or less. If a multi-family structure includes more than four units, it is typically considered a commercial property and will not be considered a residential structure. KAR strongly supports the inclusion of this language in **HB 2036** which clarifies the necessary distinction between residential and commercial structures in the thermal efficiency disclosure statutes.

Second, in section 2 on lines 34 and 35 of page 1, **HB 2036** was amended by the House to require the disclosure form to be presented to the buyer or prospective buyer prior to the signing of the contract to purchase and prior to closing if changes have occurred or are requested. Under current law, the seller or builder of a new construction residential structure is required to present the form to the buyer or prospective buyer upon request or at closing.

In order to make energy efficiency a significant factor in the decision whether or not to purchase a new home, KAR agrees that the buyer or prospective buyer must be made aware of the energy efficiency of the home prior to becoming obligated to purchase the home. If this information is provided to the buyer before he or she signs the purchase contract and becomes obligated to purchase the home, then the buyer has been adequately informed on the energy efficiency of the home prior to making their final decision to purchase the property.

During contract negotiations, after the prospective buyer has had the opportunity to examine the information included in the disclosure form, they will have the opportunity and necessary knowledge to request changes or upgrades in the residential dwelling and demand the addition of more energy efficient components and systems. This would clearly reinforce the intent behind the thermal efficiency disclosure statutes by ensuring that consumers have all the necessary tools to make informed and intelligent choices on energy efficiency-related issues.

Third, on page 4, **HB 2036** would prescribe a new residential thermal efficiency disclosure form to be provided to the buyer or prospective buyer of a new construction residential dwelling. When you examine the proposed thermal efficiency disclosure form included in **HB 2036** in detail, it is clear that the proposed form will provide the prospective buyer with much more detailed and accurate information on the thermal efficiency of the home than under current law.

In addition to the R- or U-Value of each individual system or component, the form will provide the prospective buyer with the Energy Star Rating and 2006 IRC/IECC R- or U-Value for each individual system or component. Because there are two different Energy Star zones in the state and each individual local government in the state has the authority to adopt its own version of the 2006 IRC/IECC code, the blanks next to each individual system or component have been intentionally left blank to allow the individual builder or seller to enter the specific values which pertain to his or her particular region or local government of the state. KAR strongly supports the inclusion of additional information in the form which will provide the prospective buyer with additional useful information on the thermal efficiency of the new residential dwelling.

Finally, in lines 15 to 20 on page 5, **HB 2036** would require each thermal efficiency disclosure form to include information informing the prospective buyer on the specific requirements of the Energy Star Program. In order to be certified as an Energy Star home, a home must meet the minimum requirements specified by the Energy Star Program, be verified and field-tested in accordance with the appropriate standards by an accredited provider and meet all applicable codes. Because Energy Star certification is a performance-based examination of a home that must be conducted following the completion of the construction process, KAR strongly supports the inclusion of information in the thermal efficiency disclosure form which would inform the prospective buyer on the specific requirements of having their new home certified as an Energy Star residential dwelling.

In closing, KAR would urge the committee to support **HB 2036** and ensure that consumers are provided with timely and useful information on the energy efficiency of new residential dwellings.