

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 382

As Amended by House Committee on
Commerce, Labor and Economic Development

Brief*

SB 382, as amended, would amend the Real Estate Brokers' and Salespersons' License Act (Act) by requiring individuals and organizations dealing in assignable contracts for the purchase, sale, or option on real estate to be licensed by the Kansas Real Estate Commission (Commission). The Commission would also be authorized to issue cease and desist orders.

The bill would amend the definition of a "broker" to include a licensee who "buys, sells, offers to buy or sell, markets for sale, exchanges, or otherwise deals in" assignable contracts for real estate.

The bill would also amend the Act to state that no person individually or as part of an association, corporation, limited liability company, limited liability partnership, partnership, professional corporation, or trust shall engage in the business of a broker, associate broker, or salesperson without a license.

The bill would exclude participation in assignable contracts from the activities that are exempted from licensure under the Act for an individual dealing with their own property or an individual who owns 5.0 percent or more of the organization for which they are acting.

The bill would authorize the Commission under the Act to issue cease and desist orders against unlicensed persons

*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>

or organizations determined to have practiced without a valid broker's or salesperson's license issued by the Commission.

The bill would exempt services rendered by an attorney licensed to practice in the State of Kansas from the Act, regardless of whether the attorney is performing professional duties as an attorney in rendering such services.

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of the Commission.

Senate Committee on Commerce

In the Senate Committee hearing on February 10, 2022, **proponent** testimony was provided by representatives of the Kansas Association of Realtors and the Commission. The proponents generally stated that the practice of assignable contracts has led to increasing complaints to the Commission and is an issue of consumer protection.

No neutral or **opponent** testimony was provided.

House Committee on Commerce, Labor, and Economic Development

In the House Committee hearing on March 8, 2022, **proponent** testimony was provided by representatives of the Kansas Association of Realtors and the Commission. The representatives generally stated the bill would help protect consumers in real estate transactions involving assignable contracts.

No other testimony was provided.

The House Committee amended the bill to expand the exemption for attorneys licensed to practice in Kansas from the provisions of the Act.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Commission states that enactment of the bill has the potential for increased licensure fee revenues. The Office of the Attorney General states enactment of the bill could lead to increased workload for the Commission's assigned litigation counsel. The Office of the Judicial Administration states enactment of the bill could lead to increased litigation in the courts. No agencies were able to estimate a fiscal impact from enactment of the bill.

Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Licensure; real estate brokers and salespersons; Kansas Real Estate Commission; cease and desist orders; Real Estate Brokers' and Salespersons' License Act