



Memo To: Committee on Government Efficiency
From: Sherry C. Diel, Executive Director
RE: HB 2726 Forbidding state agencies to charge surcharge or fee for payments made by credit card
Date: February 15, 2012

Agency Background

The Kansas Real Estate Commission ("Commission") is responsible for licensing and regulating real estate salespersons and brokers. The Commission also approves curriculum and instructors for pre-license and continuing education courses. The Commission is fee funded and receives no State General Fund (SGF) monies.

Salesperson and broker licenses are issued for a two-year period. Licensees' renewals are done using the first initial of the last name of the licensee with a different renewal group coming due every two months.

Effect of HB 2726 on the Commission's Budget

Since 1998, the Commission's fees for salesperson and broker license renewals have been set by regulation at the statutory cap established by K.S.A. 58-3063. The fee for renewing a real estate broker's license is \$150 and the fee for renewing a salesperson's license is \$100. The Commission's fee fund balance is not sufficient to withstand current anticipated expenditures through FY 2014 without either continued voluntary expenditure cuts by the agency or approval by the Legislature of a statutory fee increase for four reasons: (1) \$508,438 of the Commission's fee funds was swept in FY 2004; (2) \$195,671 of the Commission's fee funds was swept in FY 2009 when the Kansas Savings Incentive Program (KSIP) program was terminated; (3) licensee counts have decreased by 3,600 since FY 2007 due to the poor economy and significant drop in the real estate market; and (4) hearing requests have doubled since the housing market began to decline.

If this legislation passes, the fiscal impact to the Commission will be significant. *Consideration of the negative fiscal impact of this bill was not factored into the Commission's tenuous fee fund balance.* The Commission cannot increase fees by regulation to make up the cost of the fees charged by the credit card companies because fees are already set at the statutory cap, and have been, for the past 13 years. The Commission requested introduction of legislation to increase original license and renewal fees during the 2010 and 2011 legislative sessions but the legislation did not pass. Consequently, the Commission must consider that the fees charged by the credit card companies will be a reduction in the Commission's revenues collected.

Instead of the Commission receiving \$150 for each broker license renewal, \$100 for each salesperson renewal, and \$50 for each late renewal for salespersons and broker licenses as budgeted by the Commission, the Commission will receive approximately \$94-\$95 for each salesperson renewal, \$144-\$145 for each broker renewal, \$144-\$145 for each late salesperson renewal, and \$191-\$192 for each late broker renewal.

In FY 2011, the Commission renewed 1,864 broker's licenses and 4,668 salesperson licenses. The percentage of licensees that processed their renewals online was 62%. Not considering the loss of fees from late renewals, the Commission would have lost \$6,936 in broker renewal fees in FY 2011 had this legislation been in effect (1,155 brokers renewing online X \$6) and \$17,364 in salesperson renewal fees (2,894 salespersons renewing online X \$6). The loss for FY 2012 would be higher because the renewal groups that renew in even-numbered years are historically larger than renew in odd-numbered years.

No request was made for the Commission to submit a fiscal note on this legislation. Because the fees charged by credit cards companies vary significantly depending on the company that issues the card; whether it is a debit, credit or electronic transaction; and the credit card companies' rates change frequently with little notice, the long-term fiscal impact on the Commission will be significant over time. The Commission is not in a financial position to absorb fees and surcharges charged by credit card companies. The Commission currently allows both online and paper renewal applications. If a licensee does not want to pay the credit card fee for an online transaction, the licensee may submit a paper renewal form and pay the renewal fee by check.

The Commission respectfully requests that the negative fiscal implications of this legislation on the Commission's fee fund balance be fully considered. Please contact me at (785) 296-6951 if you have any questions how this legislation will affect the Commission. Thank you for your consideration.