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To: Senate Federal and State Affairs Committee
Date: March 7th, 2018
Subject: Opposition to SB 421.

Honorable Chairman Estes and members of the Senate Federal and State Affairs Committee:

KAR represents over 9,500 members involved in both residential and commercial real estate and has advocated on behalf of the state's property owners for over 95 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

The 2018 KAR Legislative Policy Statements provides:

In conjunction with the vigilant enforcement of the REALTOR® Code of Ethics, REALTORS® are acutely aware of the importance and necessity of the continued licensure and regulation of the real estate industry by the Kansas Real Estate Commission. At all times, REALTORS® strive to protect the interests of the public by maintaining and perpetuating a high level of competence for those individuals entering and continuing to practice in the real estate industry. Towards this end, we also recognize the importance of protecting the public by opposing legislation designed to circumvent the licensure and regulation of the real estate industry. Accordingly, we favor reasonable pre- and post-licensing educational requirements to enhance the competency of the industry.

It is with this policy in mind that we have concerns with the provisions of SB 421.

Our specific concern is with subsection (c) of Section 1 on lines 24-31 in that it would impact the licensing decisions of the Kansas Real Estate Commission (KREC) and their enforcement of the Kansas Real Estate Brokers' and Salespersons' License Act. From our perspective, five years is an arbitrary limitation on KREC's criminal history inquiring and its ability to determine whether an individual should receive a Kansas real estate license.

As part of the daily routine of being a real estate professional, real estate licensees are privy to some of the most personal and confidential financial information of consumers. Real estate licensees receive a copy of consumers' confidential financial information (such as social security numbers and account balances and numbers) during the real estate transaction process and unscrupulous individuals could easily use this information to commit financial fraud and identify theft against consumers.

In addition, real estate licensees routinely have access to the homes and personal possessions of consumers when those homes are listed for sale in the multiple listing service (MLS). For example, real estate licensees have access to expensive personal possessions of consumers such as electronics and jewelry when consumers are not around to protect their personal belongings. In addition, real estate licensees also have access to prescription medications and other valuable items belonging to consumers.

Most importantly, real estate licensees commonly have information on when children will be present in the home or when children come home from school unattended and are present in the home without an adult. In the wrong hands, this information could be extremely dangerous and could cause real harm to children and families.

Thankfully, the Kansas Legislature has historically agreed with these concerns and passed 2007 HB 2295 on a nearly unanimous vote (122 to 2 in the Kansas House and 39 to 0 in the Kansas Senate), which provided more certainty in licensing decisions for individuals with certain criminal histories. Since that time, KREC has used this authority to deny real estate licenses to dozens of applicants who presented a threat to Kansas consumers. KAR strongly urges the Kansas Legislature to respect our right to protect consumers who interact with Kansas real estate professionals by honoring the previous actions of the Kansas Legislature in 2007 HB 2295.

SB 421 does allow for a licensing body to consider person felonies or sexually violent crimes past five years from the date of conviction. However, there are certain crimes that would be relevant to whether an individual with a criminal history should be approved for real estate licensure that would be prohibited from being considered under SB 421. Felonies such as forgery, theft, and felony DUI are examples of non-person felonies that would be relevant to a real estate licensing decision, but would be prohibited from being used to disqualify an applicant after five years.

Furthermore, the bill's five year look back is to the date of conviction. This sets up the perverse scenario where someone serving a jail sentence can apply for licensure while still in prison for certain crimes and be allowed to receive their license upon release. A better path would be to have the look back go to the date of the applicants discharge from post-release supervision, completion of any non-prison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to, or conviction.

In our opinion, the Kansas Legislature has thoughtfully enacted licensing acts and deliberately provided appropriate criminal history restrictions that conform to the profession under consideration. The real estate licensing act was thoughtfully reviewed by KAR, KREC and the Kansas Legislature in 2007 and was appropriately amended. Therefore, we ask that if the committee chooses to advance this legislation, that it consider striking or significantly modifying subsection (c) of the bill.

Thank you for your consideration of our testimony. I am happy to stand for questions at the appropriate time.

Respectfully submitted,



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