

March 6, 2023

The Honorable Sean Tarwater, Chairperson  
House Committee on Commerce, Labor and Economic Development  
300 SW 10th Avenue, Room 346-S  
Topeka, Kansas 66612

Dear Representative Tarwater:

**SUBJECT:** Fiscal Note for HB 2389 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2389 is respectfully submitted to your committee.

HB 2389 would require that anyone who markets for sale, exchanges, or otherwise deals in assignable contracts for the purchase, sale, or options on real estate or improvements be licensed by the Kansas Real Estate Commission. The bill requires that a person acting individually or as an employee, owner or member of an association, corporation, limited liability company, limited liability partnership, partnership, professional corporation, or trust that directly or indirectly acts as a broker, associate broker, or salesperson be licensed by the Kansas Real Estate Commission. The bill also authorizes the Kansas Real Estate Commission the authority to issue cease and desist orders to individuals transacting real estate without a real estate license.

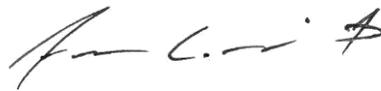
The Kansas Real Estate Commission indicates HB 2389 has the potential to increase license fee revenues if additional individuals obtain a real estate license in order to comply with the provisions of this bill. However, the Commission does not know how many individuals would obtain a real estate license to make a precise estimate of the additional license fee revenues. It is unclear if individuals or entities that are currently involved in transacting real estate without a real estate license would get a real estate license or exit this market.

The Attorney General's Office indicates the bill has the potential to increase the workload of the civil attorney assigned as litigation counsel to the Kansas Real Estate Commission beginning in FY 2024. The Commission pays the Attorney General's Office a negotiated fee for those services, so if additional capacity is needed, the fee for those increased services would be negotiated with the Commission. The Attorney General's Office indicates that it is also possible

that the constitutionality of this legislation could be challenged; however, the Attorney General's Office did not specifically identify any provision that could be unconstitutional. If the case were to be challenged, the case would likely need to go through the appellate process to get a definitive ruling on the validity of the law. Depending on which court system, federal or state, the case was filed in, getting to an appellate decision could take two to four years.

The bill has the potential for increasing litigation in the courts. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming the cases would be. The fiscal effect would most likely be negligible and could be accommodated within the existing budget resources. Any fiscal effect associated with HB 2389 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt  
Director of the Budget

cc: Erik Wisner, Kansas Real Estate Commission  
Vicki Jacobsen, Judiciary  
John Milburn, Office of the Attorney General