

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 42

As Recommended by Senate Committee on
Commerce

Brief*

SB 42 would define “rebate” for purposes of the Real Estate Brokers’ and Salespersons’ License Act (Act) to mean the return of all or a portion of any real estate purchase price, whether by cash or cash equivalent (which could include gift cards, prepaid credit cards, or other similar items of value) which is agreed to between a licensee and client or customer before closing and is contingent upon the transaction closing. A rebate also would include the return of all or part of a licensee’s commission or compensation to a client that would have the purpose of affecting the price specified in the closing statement. Under continuing law, the Act prohibits the use of rebates in a real estate transaction. The bill also would clarify the definition of “interest,” as that term is used in the Act, to mean a property interest in the real estate involved in the transaction.

Background

The bill was introduced by the Senate Committee on Commerce during the 2019 Session. In the Senate Committee hearing on February 12, 2019, representatives from the Kansas Real Estate Commission (Commission), the Kansas Association of Realtors (Realtors), and Cartus Corporation spoke in favor of the bill. The Chairperson of the Commission expressed concern the Federal Trade Commission could sue the State over alleged antitrust violations regarding the prohibition on rebates. After

*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>

determining the Commission had insufficient authority to define a rebate, it was determined a legislative solution could be necessary. On February 18, 2020, a representative of the Realtors provided additional testimony in favor of the bill, suggesting an alternative approach if needed.

No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, the Commission indicates the bill would have no fiscal effect on its operations.