

## **Summary of HB 2772 – Requiring All Appraisals to Be Conducted by Licensed Real Estate Appraisers and Requiring New Language on Radon Gas in All Residential Real Estate Contracts**

### Background Information

- This legislation requires all appraisals to be conducted by licensed real estate appraisers and requires new language on radon gas in all residential real estate contracts. **HB 2772** passed the House on a vote of 97 to 22 and the Senate on a vote of 36 to 3. The Governor signed this legislation on May 14, 2008.
- As it was originally introduced, this legislation only contained the provisions pertaining to the licensure of real estate appraisers. During the negotiations on this legislation, KAR was able to obtain an exemption for real estate brokers and salespersons to provide brokers' price opinions (BPOs) and comparative market analyses (CMAs) to customers, clients and third parties for compensation.
- However, after the radon legislation (**SB 577**) was defeated in the House Commerce and Labor Committee, Senator Jim Barnett (R – Emporia) amended the radon provisions into the appraiser legislation (**HB 2772**) on the Senate floor. During the discussions in conference committee, most of the radon provisions were removed from this legislation.
- The conference committee did agree to the requirement that new language on radon gas be included in all residential real estate contracts. KAR did not support this language, but could not ask legislators to vote against the conference committee report since this provision was folded into the appraisers' licensing legislation.

### All Appraisals Will Now Have to Be Conducted by Licensed Real Estate Appraisers

- Under current law, appraisals only need to be conducted by licensed real estate appraisers when the value of the property exceeds \$250,000 and the mortgage will be bundled and sold on the secondary market. This legislation eliminates that distinction and requires licensed real estate appraisers to conduct all appraisals for mortgage financing on real property.
- In order to ensure that real estate licensees are able to maintain current and future business practices, KAR was able to secure an exemption for real estate brokers and salespersons to provide brokers' price opinions (BPOs) and comparative market analyses (CMAs) to customers, client and third parties for compensation. However, in order to maintain compliance with this statute, all BPOs and CMAs by real estate salespersons and brokers should contain language similar to the following disclaimer: "This opinion or analysis is not an appraisal and was not prepared by a licensed or certified real estate appraiser."

### New Language on Radon Gas Will Be Required in All Residential Real Estate Contracts

- Starting on July 1, 2009, all residential real estate contracts will be required to contain new language on the potential problems associated with exposure to radon gas. Even though KAR did not support this language, we could not ask legislators to vote against the conference committee report since this provision was folded into the appraisers' licensing legislation.
- The original version of this provision would have required the notice to be printed in bold font and the buyers to acknowledge receipt of the notice in the contract with their initials. During the conference committee discussions, these requirements were deleted.

- Starting on July 1, 2009, the following language must be included word-for-word in normal font in all residential real estate contracts:

“Every buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas department of health and environment recommends all homebuyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to [www.kansasradonprogram.org](http://www.kansasradonprogram.org).”

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