

A-Pass-Weikel Institute

REAL ESTATE  
LICENSING LAWS  
IN KENTUCKY



Edited by  
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This is an unofficial text of statutes and regulations and is for information purposes only.

For a review of the Legislative Research Commission's Official Statutes and Regulations, please refer to their website at <https://legislature.ky.gov/Law/Pages/default.aspx>

A-Pass-Weikel Institute wishes to thank Shelly Saffran for her efforts to make the Kentucky Real Estate License Law available for everyone to use. We thank her for her many years of service to the Commonwealth.

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## CHANGES TO THE STATUTES & REGULATIONS FROM 2008 - 2019

Below is an unofficial summary of the Statute/Reg changes since 2008.

### REGULATIONS EFFECTIVE ON 03/07/2008

#### 201 KAR 11:170 Private school and course approval

This regulation was amended to require all pre-license courses to include a closed-book monitored final examination. Students must obtain at least a 75% in order to pass the exam and only one retake is permitted (2 retakes are allowed). Students must complete a project that is applicable to the course content. The regulation also changes the pre-license approval period to a two-year cycle and outlines the requirements for submitting materials to the Commission.

#### 201 KAR 11:210 Licensing, education & testing requirements

This regulation sets forth the requirements for education documents submitted in a language other than English and provides for an evaluation process for education completed outside the United States to ensure candidates have fulfilled the high school/GED requirements.

#### 201 KAR 11:230 Continuing education requirements

The regulation sets the penalty for non-compliance to \$500.00 and the previous final delinquency plan opportunity was deleted. The revision also clarified course/instructor approval processes.

#### 201 KAR 11:240 Distance education requirements

This regulation sets standards for all online pre-license and continuing education courses. All courses must be certified by ARELLO or IDECC for format and delivery and the KREC will review the content. The regulation outlines the requirements for instructors, course layout, and the provider submission and reporting responsibilities. All such courses require a final examination that the individual must pass.

#### 201 KAR 11:450 Broker management course

This regulation was amended to clarify the course submission process and to increase the number of questions on the final examination from 50 to 75 in accordance with 201 KAR 11:170.

### STATUTE EFFECTIVE ON 07/15/2008

#### KRS 324.235 – KRS 324.238 Commercial Law

These statutes became effective on July 15, 2008 and govern how out-of-state licensees can practice commercial brokerage in the state of KY.

### STATUTES EFFECTIVE ON 06/25/2009

#### KRS 324.010 Definitions for chapter – application of chapter

This new law created a new definition of a “designated manager.

#### KRS 324.111 Escrow account of broker; Interest; Audit; Contract deposit release; Separate property management accounts

This change requires principal brokers to report to the Commission overdrafts of their escrow accounts that are not corrected within 72 hours. The Commission now has emergency power to address alleged escrow violations and can order emergency hearings.

#### KRS 324.141 Reciprocal licensing between states; Consent to service of process by nonresident applicant

This change clarified the Commission will no longer enter into reciprocal agreements with other states for out-of-state licensees to obtain a Kentucky license. *NOTE: Although the heading of this statute still says “Reciprocal,” there are not currently any reciprocal agreements.* The Commission utilizes license recognition. The out-of-state licensee’s foreign license will be recognized and they must complete the application forms, pass the state law portion of the exam and fulfill other requirements.

#### KRS 324.160 Sanctions – Grounds for sanctions

The language in this statute (subsection m) regarding inducements and rebates, which became unenforceable in 2005 due to an agreement between the U.S. Department of Justice and the Kentucky Real Estate

Commission, has been removed. Although the language had been in the statutes, it has not been enforced by the Commission since 2005.

#### KRS 324.2812 Limitation of commission’s jurisdiction

This new law clarifies that the Commission does not regulate nor have jurisdiction over community management associations.

#### KRS 324.310 Delivery of sales associate’s license to commission when association terminated; Placing license in escrow with commission; and

#### KRS 324.312 Commission’s right for return of associate’s license; Sanction for failure to return

Changes to these two statutes require principal brokers to return licenses to the Commission within five (5) days, when the principal broker receives a request from a licensee to end his or her affiliation agreement. If a principal broker does not return the license within five (5) days, he or she will be in violation of KRS 324.160(4)(u).

### REGULATION EFFECTIVE ON 10/02/09

#### 201 KAR 11:230 Continuing Education Requirements

The Commission will now accept approved courses in one (1) to six (6) hour increments. Prior to this change, licensees were only allowed credit for courses in three (3) hour increments.

### REGULATIONS EFFECTIVE ON 12/4/09

#### 201 KAR 11:300 Use of facsimile and electronic-mail transmissions, electronic storage

This regulation was changed to explain the process for using and responding to documents containing electronic signatures.

#### 201 KAR 11:450 Brokerage management course

This amended regulation puts a one-year limit on the completion of projects for passing the brokerage management course.

#### 201 KAR 11:121 Improper conduct

This regulation was amended to eliminate duplicative information about guaranteed sales plans.

#### 201 KAR 11:215 License recognition; application requirements

This is a new regulation which provides the details for applying for a license under the new license recognition law.

### REGULATION EFFECTIVE ON 2/5/10

#### 201 KAR 11:250 Listing and purchase contracts and other agreements entered into by licensees; provisions required; seller-initiated re-listing request disclosure form

This regulation was amended to include two new sections (sections 6 & 7) setting out the requirements that a licensee must meet regarding negotiating a subsequent listing agreement with another broker. These requirements include the use of a form, which is on KREC website.

### STATUTES EFFECTIVE 7/15/10

#### KRS 324.090 Expiration of license – Fine for failure to renew on time – Expired status

This statute changed the statutory March 31<sup>st</sup> renewal date to a date that will be established in a regulation.

#### KRS 324.112 Broker to manage certain branch offices – Qualified sales associate may manage certain branch offices – Registration of branch offices – Filing of licenses – Temporary affiliation of one principal broker with another

This amendment allows a principal broker to maintain a branch office within 100 miles without a broker managing the office. A branch office outside a 100-mile radius of the main office is required to have a managing broker. A sales associate with two (2) years experience in real estate, averaging at least twenty (20) hours per week for twenty

(24) months prior, may manage a branch office inside a 100-mile radius of the main office.

**KRS 324.330 Notice of change of location, firm name, surname or associate – New license**

This statute amends that licensees shall annually file their telephone numbers and email addresses with the Commission.

**KRS 324.410 Purpose of fund**

This statute was amended to state that the Commission has one hundred twenty (120) DAYS AFTER THE END OF EACH FISCAL YEAR TO MAKE THE Commission's Education Research and Recovery Fund Statement public through the Commission's website or public media.

**STATUTE EFFECTIVE ON 7/12/12**

**KRS 324.410 Purposes of fund**

This statute was amended to improve budget management and financial accountability of the KREC's two budget accounts, including the Trust and Agency Account and the Education, Research, and Recovery Fund.

**REGULATION EFFECTIVE 7/12/12**

**201 KAR 11:225 – License renewal – annual requirements and change request procedures**

This new regulation addresses license renewal – annual requirements and change request procedures.

**REGULATION EFFECTIVE 11/1/13**

**201 KAR 11:220 – Errors and omissions insurance requirements**

This amended regulation clarifies that cost of investigation/ defense is excluded from the limit of liability and annual aggregate.

**REGULATIONS EFFECTIVE 10/31/14**

**201 KAR 11:011 – Definitions for 201 KAR Chapter 11**

This regulation was amended to delete the definition of "Prize," to reflect changes in law allowing rebates and inducements. It was also amended to delete the definitions of "Guaranteed sales plan" and "Required disclose." That language was moved to 201 KAR 11:121 where the requirements of a guaranteed sales plan are listed.

**201 KAR 11:105 Advertising listed property; advertising public information about specific property; under what conditions consent and authorization of owner or principal broker is required**

This regulation was amended to clarify that a buyer's agent may advertise after closing, his or her role in the sale and to require that his or her participation as a buyer's agent is conspicuously stated.

**201 KAR 11:121 Improper conduct**

This regulation was amended to include the definition of "Guaranteed sales plan" and the advertising and required disclosure requirements for guaranteed sales plans. This regulation was amended to delete language dealing with licensees acting in the dual capacity of a real estate licensee and a loan originator. This regulation was also amended to remove language prohibiting a Kentucky broker to assist an individual not actively licensed in Kentucky in the practice of brokering real estate, which was deemed unconstitutional.

**POST-LICENSE STATUTES EFFECTIVE ON 1/1/2016**

**KRS 324.010 Definitions for chapter – Application of chapter**

This statute was amended to define post-license education.

**KRS 324.085 Continuing education requirements – Post-licensure education requirements -- Qualifications of instructors – Administrative regulations**

This statute was amended to require initial sales associates licensed after the effective date to complete forty-eight (48) classroom or online hours of commission-approved post-license education.

**STATUTE EFFECTIVE 06/24/2015**

**KRS 324.020 – Requirement of licensing – Application of chapter to owner or builder-developer – Prohibition against fee splitting – Exceptions – Supervision of sales associate – Authority to seek injunctive relief.**

This statute was amended to allow a broker to pay a licensed auctioneer for services rendered in cases where an auctioneer and real estate broker collaborate in the conduct of a sale of real estate at auction.

**REGULATIONS EFFECTIVE 12/4/2015**

**201 KAR 11:170 Real estate school and pre-license course approval**

This administrative regulation sets forth the application and approval process for real estate education schools and pre-license courses; provides the record maintenance requirements; sets the criteria for out-of-state course approval; authorizes inspections and monitoring by the Commission; sets grounds for revocation of school approval; and prohibits attempts to copy or reconstruct the real estate licensing examination. The amendments simplify the approval process for schools and course offerings; removes the requirement for third-party course approval, and it provides a new process for reconsideration of the Commission's intent to withdraw approval.

**201 KAR 11:175 Instructor approval procedures and guidelines**

This administrative regulation sets forth the process for the approval of an instructor at an approved real estate school. It was amended to maintain consistency between the requirements for pre-license, continuing education, and post-license education instructor approval.

**201 KAR 11:195 Informal settlement procedures**

This new regulation allows the Commission, after ordering a hearing, to resolve disciplinary proceedings without the necessity for a hearing, if all parties agree to settle the matter by Agreed Order.

**201 KAR 11:210 Licensing, education and testing requirements**

This regulation establishes education standards and licensure application requirements; provides for procedure for translating and certifying diplomas and transcripts that are in a foreign language; and requires applicants for licensure to apply within 60 days of the real estate license examination. The amendments changed the entities ability to provide the translation and equivalencies certifications to any service provider with membership in the National Association of Credential Evaluation Service and removed the requirement for an official transcript to be imprinted with the institution's seal, signed by the registrar to be sent directly to the Commission by the institution, in order to allow receipt by electronic transmission.

**201 KAR 11:230 Continuing education requirements**

This administrative regulation establishes the continuing education (CE) requirements; sets the requirements for the mandatory six (6) hours of continuing education (CE) and the annual deadlines for compliance; changes the timeline for when CE must be completed; and provides that CE shall not be required during the first two (2) calendar years from the date of the initial sales associate license. It also sets forth the non-compliance and delinquency remedies; informal settlement process; and sets forth the requirements for approval of out-of-state courses. The amendments provide a definition of "continuing education course" and changes one (1) hour of CE to be measured by length of instruction, rather than class attendance.

**201 KAR 11:232 Continuing education provider requirements**

This regulation addresses Continuing Education (CE) Provider requirements, which were deleted from 201 KAR 11:230. It sets forth the application requirements, CE course curriculum, and out-of-state course approval process. Forms are now incorporated by reference.

**201 KAR 11:235 Post-license education requirements**

This regulation sets forth the forty-eight (48) hour Post-license Education (PLE) requirements. It provides definitions for the key terms

“Broker-affiliated Training Program” and “Initial Sales Associate License,” and sets forth the approval requirements for PLE course providers, instructors, and curriculum. It also addresses the compliance and a delinquency remedy, record maintenance requirements, and incorporates by reference the required forms to be used.

#### **201 KAR 11:240 Distance education requirements**

This regulation establishes the distance education requirements and criteria for approval of online and other distance education methods for pre-license, post-license, and continuing education courses. It sets forth the approval process and sets the criteria for the distance education course and instructor approval. The Amendment deletes the requirement that these types of courses be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC).

#### **201 KAR 11:460 Minimum rating requirements for instructors**

This administrative regulation outlines the minimum rating required of all instructors, the evaluation process, and addresses the option for instructors who receive ratings below the required minimum. It incorporates by reference the forms required to be used.

#### **REGULATION EFFECTIVE May 6, 2016**

#### **201 KAR 11:350 Seller’s Disclosure of property conditions form**

This amendment removed the Seller’s Disclosure of Property Conditions Form in its entirety from the regulation. It is now incorporated by reference. It also added a definition of “single family residential real estate dwelling,” and three new questions. New questions include disclosing if the house is in a “special flood hazard zone;” the name and contact information of the Homeowner Association if applicable; and whether there is an existing environmental hazard from un-remediated methamphetamine. The existing question regarding the condition of the “roof” has now been changed to “roof covering.” Lastly, formatting changes were made to include a “Not Applicable” (N/A) answer to make the form clearer.

#### **STATUTE EFFECTIVE December 1, 2016**

#### **324.281 Kentucky Real Estate Commission – Members – Terms – Vacancies – Duties – Mandatory continuing education**

This statute was amended under the Governor’s Executive Order 2016-859 and made changes to the name of the Kentucky Real Estate Commission, its structure, commission members compensation, number of voting members and non-voting members and reorganized the Commission within the Public Protection Cabinet and created the Kentucky Real Estate Authority.

#### **STATUTES EFFECTIVE April 11, 2017**

#### **324.281 Kentucky Real Estate Commission – Members – Terms – Vacancies – Duties – Mandatory continuing education**

Changes were made to this statute upon the passing of House Bill 443 with regard to members, terms, vacancies and compensation.

#### **324.283 – Compensation of Commission members**

This statute was repealed with the passing of House Bill 443.

#### **324B Department of Professional Licensing – Kentucky Real Estate Authority**

This statute was created relating to the reorganization of the Kentucky Real Estate Authority Boards.

#### **STATUTES PASSED, June, 2019**

#### **KRS 324.085- Continuing education requirements – Post licensure education requirements – Qualifications of instructors – Administrative regulations**

This statute changed to require licensees to have to complete twelve (12) hours of continuing education each biennial license period. Six (6) of the twelve (12) hours must be in KREC-approved law courses. Six (6) hours must be completed by December 31<sup>st</sup> of the first year of the renewal period, three (3) of which must be in law. Licensees who take more than six (6) hours during the first year of the renewal period and can use those excess hours towards the second year in the renewal period. However, licensees cannot take all twelve (12) hours in the second year. Effective date of enforcement is January 1, 2020.

#### **KRS 324.090- Expiration of license – Fine for failure to renew on time – Expired status**

This statute changed the renewal period from one (1) year to two (2) years, so licenses shall renew biennially. Licensees will renew by March 31, 2020, but will not have to renew again until March 31, 2022. Individuals that obtain a license in 2021 will renew in 2021, but will not have to renew again until 2023, and so on. Effective date of enforcement is January 1, 2020.

#### **324.281 Kentucky Real Estate Commission – Members – Terms – Vacancies – Duties – Mandatory continuing education**

This change allows the KREC to have up to seven (7) commissioners.

#### **KRS 324.287 Fees**

The amended renewal fees, license fees and recovery fund fees from annual to biennial. It capped a transfer fee initiated by a principal broker for more than twenty (20) licensees at \$200 two hundred dollars. It added a fee for reactivation of \$10 ten dollars. It removed the fee for a criminal background check. It established a Prelicensing education course review fee, not to exceed two hundred dollars (\$200); a continuing and postlicensing education course review fee, not to exceed fifty dollars (\$50) and a Distance education course review fee, not to exceed seventy-five dollars (\$75). Effective date of enforcement is January 1, 2020.

#### **KRS 324.310 Delivery of sales associate’s license to commission when association terminated – Placing license in escrow with the commission**

This amendment changed the term “escrow” to “inactive” when describing the status of a license. If a licensee wants to place his/her license in inactive status, he/she must now provide proof of an E&O extended reporting period coverage insurance for one (1) year. To become active, an inactive licensee must submit a national criminal records check, complete CE if applicable, and pay reactivation fees.

#### **324.330 Notice of change of location, firm name, surname, or associate – New license**

This amended the renewal term from annual to biannual.

#### **324.395 Errors and omissions insurance mandatory for all active status licensees -- Extended reporting period coverage insurance for inactive licensees.**

This amendment now requires inactive licensees to obtain extended reporting period coverage insurance for one (1) year at the current minimum requirements then in effect prior to entering inactive status.

#### **324.400 Real estate education, research, and recovery fund -- Fees.**

The amendment changed to required annual real estate education, research and recovery fund fee from an annual requirement to a biennial requirement.

#### **324.420 Collection by aggrieved party from recovery fund.**

This amended the period of time an aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund fee from two (2) years from the actual knowledge of the



cause of action or when the aggrieved party should have reasonably been put on notice, to one (1) year.

#### **KRS 413.140 Limitation of actions**

This statute was amended to include real estate licensees in the one-year statute of limitations for professional liability.

#### **REGULATIONS PASSED, December, 2019**

The following regulations were repealed: 201 KAR 11:030, 201 KAR 11:045, 201 KAR 11:062, 201 KAR 11:090, 201 KAR 11:095, 201 KAR 11:100, 201 KAR 11:110, 201 KAR 11:115, 201 KAR 11:135, 201 KAR 11:145, 201 KAR 11:147, 201 KAR 11:175, 201 KAR 11:180, 201 KAR 11:195, 201 KAR 11:215, 201 KAR 11:225, 201 KAR 11:230, 201 KAR 11:232, 201 KAR 11:235, 201 KAR 11:240, 201 KAR 11:245, 201 KAR 11:250, 201 KAR 11:300, 201 KAR 11:450, 201 KAR 11:460

Many of the provisions of the above repealed regulations were incorporated into the following seven regulations. Unless otherwise noted, the following regulations are effective on December 16, 2019.

#### **201 KAR 11:01 - Definitions for 201 KAR Chapter 11**

This regulation was amended to include 47 definitions, many new terms that were not previously defined. The definition without delay changes when the earnest money is deposited. Prior to this change licensees had three days from the executory contract, and now it is defined as three business days of receipt of the earnest money.

#### **201 KAR 11:105 – Advertising**

The effective date of enforcement of this regulation is June 16, 2020. This regulation was amended and established several new advertising requirements. The principal broker or designee shall establish written advertising standards. Affiliated licensees are limited to the use of one nickname, which must be registered with the Commission. When advertising, the name of the affiliated licensee cannot appear larger than the company name or principal name. Promotional materials such as hats, pens, notepads, apparel, name tags, etc., shall not have to comply with the new equal prominence requirement. This regulation sets out the requirements for internet, social media and other digital advertisements. Internet, social media and other digital advertising that was true and accurate at the time it was made shall not be in violation after the June 16, 2020 effective date of this regulation. A logo that does not contain the written text of the company name does not satisfy the required content of company name or principal broker name. Logos, brands, directional signs, and open house signs do not have to follow the advertising requirements of this regulation as long as they do not contain the name of a sales associate. Teams, groups etc., may use an alternate name with the approval of the principal broker and as long as the name is registered with the Commission and the name does not lead public to believe the team or group is offering real estate services independent of the principal broker, unless the alternate name is for the real estate brokerage company. The regulation states that team and group names must end with “team” or “group,” however, the commission has ruled by motion that team or group only has to be somewhere in the name and does not have to end in team or group. The advertising requirements for a guaranteed sales plan were moved into this regulation.

#### **201 KAR 11:121 - Standards of professional conduct**

This regulation was amended and outlines the fiduciary duties owed to the licensee’s prospective client and consumers. It also states that the fiduciary duty of confidentiality, if owed, shall survive the termination of the Agency Consent Agreement. The Agency Disclosure Form is now called the Agency Consent Agreement. The regulation outlines

that rebates, discounts or other inducements are not considered improper conduct, however that practice was allowed prior to this regulation being amended. The terms of written listing agreements are outlined in this regulation and it now requires the first and last name of the principal broker and the company. It also states that if the parties are going to have an escalation clause it must be stated in the contract. It states that a licensee representing a seller shall submit a notice in writing through electronic, text or other media, to the licensee representing a buyer, of the date and time when the offer was presented to the seller. This regulation outlines what shall be included in a listing and purchase contract. The regulation outlines that a licensee may discuss newly listing the seller’s property that is currently listed if the seller initiates contact with the new licensee, the proposed listing contract states it shall not take effect until after the expiration of the seller’s current listing contract with the original licensee, and the licensee and seller properly complete and sign the Seller-Initiated Listing Form. Nothing in this regulation shall prohibit a licensee from approaching a seller to list the seller’s property following the seller’s cancellation (*the term cancellation seems to be incorrect in this new regulation, the listing would need to be deleted or withdrawn*) of their current listing contract or expiration of the current listing contract. The Guide To Agency Relationships may no longer be personalized by the principal broker to include the principal broker’s company specific information. Property Management is no longer exempt from the required Guide to Agency Relationships or the Agency Consent Agreement. The amended regulation states that the principal broker shall be the owner of all written contracts for provision of real estate brokerage services, including but not limited to listing contracts, purchase contracts, and exclusive agency agreements. This regulation outlines the forms, documents and records required of the principal broker to preserve for a period of five years. If a principal broker engages in property management, this regulation outlines what must be preserved for five years. It also outlines the records required to be maintained pursuant to this regulation in the event of the death or incapacity of the principal broker. If a principal broker allows teams, it is the responsibility of the principal broker to notify the Commission in writing of the alternate or assumed name prior to team advertising and to offer company procedures for advertising. This regulation also outlines the duties of a principal that authorizes teams, groups or other business arrangements between affiliated licensees. This regulation requires a principal broker to implement and maintain an appropriate information security system.

#### **201 KAR 11:170 - Education provider requirements**

This amended regulation outlines the requirements for real estate schools, post-licensing education providers and continuing education providers.

#### **201 KAR 11:190 - Consumer and administrative complaints, discipline; administrative hearings**

This amended regulation outlines the procedures regarding complaints, settlements, and hearings.

#### **201 KAR 11:210 - Licensing, education, and testing requirements**

This amended regulation states that applicants applying for a broker’s license are no longer able to include the applicant’s sales associate pre-licensing education as part of their required hours for their broker’s license. License recognition was removed, however, at the time this regulation was changed Kentucky did not have any Reciprocal Licensing Agreements available. Applicants who have failed to pass any required portion of the examination three times shall wait at least thirty days from the date of their third failed examination prior to retaking the examination or the score will be void. This regulation increased the fine for licensees who do not complete their required continuing education hours from \$500.00 to \$1,000.00. The regulation

outlines change fees and states that processing of the following changes requires payment of \$10 change request fee: licensee's legal name, nickname, alternate or assumed name, residential address, electronic mail address, or the licensee's preferred direct or personal phone number and proof of errors and omissions insurance. Licensees placing a license into inactive status shall obtain extended reporting period coverage insurance for one year and file Certificate of Insurance Coverage Form 203. The following subsection does not take effect until January 1, 2021 - To activate a license that is inactive, the licensee shall take the core course. If the licensee has been inactive for more than one education cycle, the licensee shall take the core course, plus six hours of continuing education elective to be selected from a list of courses to be compiled by the commission.

**201 KAR 11:220 - Errors and omission insurance requirements**

This regulation was amended to remove the language that the errors and omissions insurance shall not be terminated, cancelled, lapsed, or nonrenewed for an insured unless the insurance company has provided the commission with prior written notice. This amendment removed the previously listed exclusions and states that coverage may exclude claims consistent with common custom in the market.

## KENTUCKY REVISED STATUTES CHAPTER 324

### 324.010 Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

- (1) "Real estate brokerage" means a single, multiple, or continuing act of dealing in time shares or options, selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee, compensation, or other valuable consideration;
- (2) "Commission" means the Kentucky Real Estate Commission;
- (3) "Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the fee compensation or other valuable consideration;
- (4) "Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;
- (5) "Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;
- (6) "Sales associate" means any person licensed in accordance with KRS 324.046(2) that is affiliated with a Kentucky-licensed principal broker—and who, when engaging in real estate brokerage, does so under the supervision of the principal broker;
- (7) "Approved real estate school" means:
  - (a) A school that has been given a certificate of approval by the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the commission; or
  - (b) A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;
- (8) "Accredited institution" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward a program for either an associate, baccalaureate, graduate, or professional degree;
- (9) "Property management" means the overall management of real property for others for a fee, compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;
- (10) "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage;
- (11) "Designated manager" means a licensed sales associate or broker who manages a main or branch office for the principal broker, at the principal broker's direction, and has managing authority over the activities of the sales associates at that office;
- (12) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from

the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;

- (13) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;
- (14) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with KRS 324.121, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;
- (15) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his license with the principal broker for supervision of the licensee's real estate brokerage activity;
- (16) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing or post-license education;
- (17) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time;
- (18) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years; and
- (19) "Post-license education" means the forty-eight (48) hours of commission-approved education required within two (2) years of receiving or activating an initial sales associate license.

### 324.020 Requirement of licensing – Application of chapter to owner or builder-developer – Prohibition against fee splitting – Supervision of sales associates – Authority to seek injunctive relief.

- (1) It shall be unlawful for any person who is not licensed as a real estate broker or sales associate to hold himself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate.
- (2) No person shall practice real estate brokerage with respect to real estate located in this state unless:
  - (a) The person holds a license to practice real estate brokerage under this chapter; or
  - (b) The person has complied with KRS 324.235 to 324.238.
- (3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.
- (4) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may:
  - (a) Pay a referral fee to a broker licensed outside of Kentucky for referring a client to the Kentucky broker; or
  - (b) Pay a commission or other compensation to a broker licensed outside of Kentucky in compliance with KRS 324.235 to 324.238.
  - (c) Pay a licensed auctioneer for services rendered in cases where an auctioneer and real estate broker collaborate in the conduct of a sale of real estate at auction.
- (5) Except as authorized in KRS 324.112 (2) and KRS 324.425, no sales associate shall supervise another licensed sales associate or manage a real estate brokerage office.
- (6) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court

where the commission is located or where the unlawful activity took place.

### **324.030 Exceptions to KRS 324.020.**

KRS 324.020(1) and (2) shall not apply to:

- (1) Any person who as owner or lessor performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employees, with respect to the property so owned or leased, if the acts are performed in the regular course of, or as an incident to, the management of the property and the investment in it;
- (2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate;
- (3) Any attorney-at-law who is performing his duties as attorney-at-law;
- (4) Any receiver, trustee in bankruptcy, administrator, or executor, person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust, or will or the regular salaried employees thereof;
- (5) A person engaged in property management, if the person:
  - (a) Is a regular employee of the owner or principal broker of the company engaged in property management; or
  - (b) Receives as his primary compensation the use of a rental unit; or
- (6) A nonlicensed person under the supervision of a licensed real estate broker who contacts the public for the purpose of setting an appointment for the broker to meet with them regarding buying or selling property and giving out general public information specifically authorized by the broker.

### **324.040 Application for license as broker or sales associate.**

- (1) Every applicant for a license, whether as broker or sales associate, shall state whether the applicant has ever had any broker's or sales associate's license revoked or suspended. Every applicant for a license shall furnish a sworn statement setting forth his business and residence address.
- (2) Every applicant for a broker's or sales associate's license shall apply in writing upon forms prepared or furnished by the commission. The applicant shall state the name of the person or company with which he will be associated in the business of real estate and the location of the place for which the license is desired. The applicant also shall set forth the period of time, if any, during which he has been engaged in the real estate business.
- (3) Every applicant for a license shall be at least eighteen (18) years of age and shall have attained a high school diploma or its equivalent. After an applicant passes the required examination, the commission shall issue a license to him.

### **324.045 Qualification for license – Examination – Fee – Criminal record check**

- (1) Licensees shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in a manner to safeguard the interest of the public, and only after satisfactory proof of qualifications has been presented to the commission.
- (2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant shall pass a written examination conducted by the commission, or its authorized representative. The examination shall be of the scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a broker or sales associate in a manner to protect the interests of the public. However, an examination shall not be required for the renewal of any present or future license, unless the license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one

(1) year.

- (3) The commission shall hold examinations at the times and places it determines, and an examination fee shall be collected from each applicant to defray the expenses of holding the examinations.
- (4) The commission may, by the promulgation of administrative regulations, require all licensure applicants to submit to a criminal record check for which the applicant shall be responsible for the payment of any fees incurred.
- (5) Applicants shall be subject to a national criminal history check through the Federal Bureau of Investigation. The applicant shall request the criminal history check and shall provide the applicant's fingerprints to either the Federal Bureau of Investigation or the Kentucky State Police for submission to the Federal Bureau of Investigation to search for information regarding the applicant in the National Crime Information Center or its successor entity. The results of the criminal history check shall be sent to the commission, and shall be sent to the applicant at the applicant's request. The applicant shall:
  - (a) Authorize release of the results of the criminal history check to the commission;
  - (b) Pay the actual cost of the fingerprinting and criminal history check, if any;
  - (c) Complete the criminal history check within the ninety (90) calendar days prior to the date the license application is received by the commission; and
  - (d) Complete and return to the commission within one hundred twenty (120) days a signed affidavit verifying that there is nothing on record to prohibit the applicant from licensure.

### **324.046 Requirements for initial licensure.**

324.046 Requirements for initial licensure.

- (1) Every applicant for initial licensure as a broker shall have:
  - (a) Successfully completed not less than twenty-one (21) academic credit hours or the equivalent from an accredited institution or approved real estate school. Twelve (12) hours shall be in real estate courses, three (3) hours of which shall be a course in broker management skills. The commission shall, by promulgation of administrative regulations, determine the required course content of broker management skills courses; and
  - (b) Been engaged in the real estate business as a sales associate averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior to application.
- (2) Every applicant for initial licensure as a sales associate shall have successfully completed six (6) academic credit hours or their equivalent in real estate courses from an accredited institution or approved real estate school.
- (3) Proof of the academic credit hours shall be an official transcript from the attended university or other documentation satisfactory to the commission. Proof of the requisite experience as a sales associate shall be either a sworn notarized statement signed by the principal broker or principal brokers or other documentation satisfactory to the commission. The applicant may file a complaint with the commission if the principal broker unjustly refuses to sign the statement.
- (4) The commission may reduce the two (2) year experience requirement for applicants for a broker's license to one (1) year, if the applicant has an associate degree in real estate or a baccalaureate degree with a major or minor in real estate.
- (5) Persons licensed under the real estate laws of this state prior to June 19, 1976 shall not be subject to any educational changes in this chapter or subject to any continuing education requirements.

### **324.080 Form of license certificate – Delivery.**

The commission shall issue to each licensee a license in the form and size prescribed by administrative regulation promulgated by the

commission. This license shall show the name and address of the licensee, and, in case of a sales associate's license, shall show the name and business address of the principal broker. Each license shall have imprinted thereon the seal of the commission and other matter prescribed by administrative regulation promulgated by the commission. The license of each sales associate shall be delivered or mailed to the principal broker with whom the licensee is affiliated.

**324.085 Continuing education requirements – Post-licensure education requirements -- Qualifications of instructors – Administrative regulations.**

- (1) (a) All actively licensed agents, except those licensees exempt under KRS 324.046(5) and those licensees satisfying the educational requirement in subsection (2) of this section, shall successfully complete twelve (12) classroom or online hours of continuing education for the biennial license period. Six (6) of the twelve (12) hours shall be completed in the first year of the biennial license period or the license shall be automatically cancelled.
- (b) Six (6) of the twelve (12) hours of continuing education shall be in real estate law.
- (c) A licensee may accumulate additional continuing education hours for the biennial period in the first year of the biennial term.
- (d) Six (6) of the twelve (12) hours of continuing education may be in real estate-related courses approved by the commission and other real property boards pursuant to KRS Chapters 324A and 330 and KRS 198B.700 to 198B.738.
- (2) A licensee who is issued an initial sales associate license after January 1, 2016, shall complete forty-eight (48) classroom or online hours of commission-approved post-license education:
  - (a) Provided by one (1) or a combination of the following:
    1. An accredited institution; or
    2. A commission-approved:
      - a. Real estate school; or
      - b. Broker-affiliated training program; and
  - (b) Within two (2) years of receiving or activating his or her license unless extended by the commission for good cause shown.
- (3) The license held by any licensee failing to complete his or her sales associate post-license education requirements in accordance with subsection (2) of this section shall be automatically canceled, in accordance with administrative regulations establishing compliance and delinquency procedures.
- (4) The commission shall promulgate administrative regulations to establish procedures for implementing the requirements in this section.
- (5) In order to qualify to teach continuing education or post-license courses, all continuing education and post-license instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations

**324.090 Expiration of license – Fine for failure to renew on time – Expired status.**

- (1) Licenses shall expire biennially and shall be renewed every two (2) years on the date determined by the commission by administrative regulation. The commission shall renew a license for two (2) years, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the biennial fees required. A new license shall be mailed only if the licensee's name, address, status, or affiliation changes.
- (2) A fine not to exceed two hundred dollars (\$200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall failure of the mail.

- (3) Any license not renewed at the end of the biennial license period as prescribed by the commission shall automatically revert to expired status. An expired license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

**324.111 Escrow account of broker – Interest – Audit – Contract deposit release – Separate property management accounts.**

- (1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing. Each principal broker shall advise the commission, in writing, if any overdraft occurs in the escrow account for any reason other than service charges instituted by the bank, and which is not corrected within seventy-two (72) hours of the broker receiving notice.
- (2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.
- (3) No checks shall be drawn against uncollected deposits in the escrow account.
- (4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.
- (5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his or her escrow accounts.
- (6) Upon being notified that one (1) or more parties to a contract intend not to perform, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter unless all parties enter into a written mutual release, or unless one (1) or more of the parties initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit to the party identified in the certified letter without penalty under this section and without civil liability in the courts of the Commonwealth of Kentucky.
- (7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts or specifically indicate in all escrow records if funds are property management funds.
- (8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.
- (9) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct and emergency hearing as authorized by KRS 324.150(1)(b).

**324.112 Broker to manage certain branch offices – Qualified sales associate may manage certain branch offices – Registration of branch offices - Filing of licenses – Temporary affiliation of one principal broker with another.**

- (1) No principal broker shall maintain a branch office outside a one hundred (100) mile radius of the main office without having a broker managing the branch office.

- (2) A sales associate with two (2) years experience in the real estate business, averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior, may manage a branch office inside a one hundred (100) mile radius of the main office.
- (3) The principal broker shall register any branch office with the commission within ten (10) days of the creation of the branch office.
- (4) The licenses of all licensees shall be kept on file in the office in which they are actively engaged and affiliated.
- (5) A principal broker in the process of closing a real estate brokerage business may affiliate temporarily with another principal broker if:
  - (a) No other licensee is affiliated with the former principal broker;
  - (b) Both the former and the latter principal brokers represent to the commission that the affiliation is for the purpose of closing the former principal broker's business; and
  - (c) Both the former and the latter principal brokers give assurances satisfactory to the commission that no consumer will be adversely affected by the affiliation or the closing of the former principal broker's business.

**324.115 Brokers required to maintain definite place of business – Exception for reciprocity agreements.**

- (1) Except as provided in subsection (2) of this section, every broker licensed under KRS 324.045 shall maintain a definite place of business in this state.
- (2) A broker who is a nonresident shall not be required to maintain an active place of business in this state if:
  - (a) He or she maintains a business place in the state of original licensure;
  - (b) The state of original licensure, in accordance with its reciprocity agreement with the commission, does not require Kentucky licensees holding licenses in that state to maintain an office in that state; and
  - (c) Paragraphs (a) and (b) of this subsection do not conflict with the commission's agreement of reciprocity with the state of original licensure.

**324.117 Advertising – Affiliations to be listed – Administrative regulations of commission,**

- (1) No real estate advertising shall be intentionally false, misleading, or deceptive.
- (2) The name of a deceased broker may remain a part of the firm name.
- (3) A sales associate may have his or her name in the firm name after two (2) years' experience with the firm, averaging at least twenty (20) hours per week for twenty-four (24) months.
- (4) Whenever any real property is listed, a licensee shall include the name of the real estate company listed on the licensee's real estate license or the name of the principal broker, with whom the licensee is affiliated in all advertisements of the listed property, regardless of who places the advertisement, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property. If listed property is advertised by a customer or client of a listing licensee, the licensee shall, at a minimum, provide the customer or client with written notification of the requirements of this section. The licensee shall keep in his or her files a copy of the notification and any other documentation that is generated by the licensee as proof of his or her compliance with this section.
- (5) The commission shall, by the promulgation of administrative regulations, define false, misleading, or deceptive advertising.
- (6) The commission shall, by the promulgation of administrative regulations, define the manner in which licensees may utilize any Internet electronic communication for advertising or marketing.

**324.121 Designation of licensee as exclusive agent – Effect of**

**designation – Availability of dual agency.**

- (1) A principal broker may designate one (1) or more affiliated licensees to act as agent for a seller or lessor, to the exclusion of all other licensees affiliated with the principal broker. A principal broker may designate one (1) or more affiliated licensees to act as agent for a buyer or lessee, or prospective buyer or lessee to the exclusion of all other licensees affiliated with the principal broker. The designation procedure shall be made in writing and communicated to all licensees affiliated with the principal broker. The designated agent shall inform and obtain the consent of the buyer or lessee, or prospective buyer or lessee to the designation. The designated agent shall inform and obtain the consent of the seller or lessor to the designation. The principal broker shall not designate himself or herself as a designated agent.
- (2) If a principal broker designates one (1) or more licensees to represent the seller and one (1) or more other licensees to represent the buyer or the prospective buyer in the same transaction, only the principal broker or a designated manager working under the principal broker's direction shall be deemed to be a dual agent representing the seller and buyer in a limited fiduciary capacity. As a dual agent, the principal broker or designated manager shall keep confidential information relating to either party in an individual file that shall be maintained and accessed by the principal broker or designated manager only. As a dual agent, the principal broker or designated manager shall not disclose to either party confidential information learned relative to the other party. Except as set forth in subsection (3) of this section, this designation shall not affect the principal broker's or designated manager's agency relationships in cooperative sales between consumers separately represented by nonaffiliated principal brokers or designated managers.
- (3) No exchange of information or knowledge between or among consumers, whether the seller, buyer, lessor, or lessee, and the principal broker, the designated manager, the firm, or the licensees shall be imputed as a matter of law in any real estate transaction.
- (4) Nothing in this section shall prevent a real estate brokerage firm or licensee from entering into a dual agency relationship with consumers in a real estate transaction.

**324.141 Reciprocal licensing between state – Consent to service of process by nonresident applicant.**

- (1) (a) An individual who holds an active real estate license issued by another jurisdiction within the United States may apply for a Kentucky license by first:
  1. Completing the application forms;
  2. Passing the state law portion of the licensing examination; and
  3. Fulfilling all other pre-license qualifications as outlined in this chapter.
- (b) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the procedures for implementing paragraph (a) of this subsection.
- (2) All individuals who have held a real estate license in another jurisdiction, whether the license is currently active or canceled, shall be required to furnish, as part of his or her application for a Kentucky license, a certification of good standing, issued by the jurisdiction. The document shall include the individual's license history and any disciplinary information available from that jurisdiction.
- (3) Every nonresident applicant shall file an irrevocable consent stating that legal actions may be commenced against the applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the commission, the consent stipulating and agreeing that service of process of pleadings on the commission shall be taken and held in all courts to be as valid and binding as if service had been made

upon the applicant in the State of Kentucky. Any process or pleadings served upon the commission shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested, to the main office of the applicant against which the process or pleadings are directed.

#### **324.142 Promotion of sales in Kentucky of property located outside state.**

Any licensee who engages in promotional activities in this Commonwealth for property located outside of this Commonwealth shall first apply to the commission for its approval before so doing, and shall comply with administrative regulations, restrictions, and conditions the commission may impose as well as those provisions set forth in this chapter.

#### **324.150 Investigation of licensee – Disciplinary action against licensee – Investigative powers of commission – Emergency hearings.**

- (1) (a) The commission or its staff may on its own initiative investigate the actions of any licensee or any person who acts in that capacity. On the verified written complaint of any person, the commission shall investigate the actions of any person who assumes to act in that capacity, if the complaint, together with any evidence presented in connection with it, alleges a prima facie case that a violation set out in KRS 324.160 has been committed. After the investigation, the commission may order a hearing and, in appropriate cases, take disciplinary action against any licensee who is found in violation of KRS 324.160.
- (b) The commission may conduct an emergency hearing when alleged escrow account violations warrant emergency action. The commission shall promulgate administrative regulations to describe the specific circumstances and allegation that authorize emergency action. The emergency hearing shall be conducted in accordance with KRS Chapter 13B, as it relates to emergency orders and emergency hearings.
- (2) To investigate allegations of practices violating the provisions of this chapter, the commission may:
  - (a) Issue subpoenas to compel attendance of witnesses and the production of books, papers, documents or other evidence;
  - (b) Administer oaths;
  - (c) Review evidence;
  - (d) Enter the office or branch office of any principal broker for the purpose of inspecting all documents required by the commission to be maintained in the principal brokers office or branch office which relate to the allegations of practices violating the provisions of this chapter;
  - (e) Examine witnesses; and
  - (f) Pay appropriate witness fees.

#### **324.151 Complaints – Answers.**

- (1) All complaints against licensees shall be submitted to the commission on forms furnished by the commission. The complaint shall state facts which, if true, would constitute a prima facie case that the licensee has violated the provisions of KRS 324.160. If the complaint does not constitute a prima facie case, the commission shall allow the complainant ten (10) days to revise and supplement the complaint in order to cure any defect. If the complainant fails to respond within ten (10) days or if the revised and supplemented complaint does not constitute a prima facie case that the licensee has violated the provisions of KRS 324.160, the commission shall dismiss the matter without requiring the licensee to file or serve a response.
- (2) If the complaint constitutes a prima facie case that a licensee has violated the provisions of KRS 324.160, a copy of the complaint,

exhibits attached thereto, and any subsequent pleadings, shall be served on the licensee, by the commission, at the licensee's last known address and shall show certification that there has been service by writing to the last known address.

- (3) If the commission serves the complaint upon the licensee, the licensee shall file with the commission an answer to the complaint, properly notarized, on forms secured from commission offices. The answer shall be returned to the commission within twenty (20) days. The licensee shall deliver to the complainant at his or her last known address a copy of the answer, exhibits attached thereto, and any subsequent pleadings. All further pleadings in the matter filed with the commission by either party shall show that a copy has been furnished to the opposing party or parties.
- (4) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct an emergency hearing as authorized KRS 324.150(1)(b).

#### **324.160 Sanctions – grounds for sanctions.**

- (1) The commission may order any or all of the following sanctions for violation of subsections (4) to (7) of this section:
  - (a) Suspension of any license;
  - (b) Revocation of any license;
  - (c) Levy of fines not to exceed one thousand dollars (\$1,000);
  - (d) Placing of any licensee on probation for a period of up to twelve (12) months;
  - (e) Requiring successful completion of academic credit hours or additional credit hours in real estate courses from an accredited institution or approved real estate school; or
  - (f) Issuing a formal or informal reprimand.
- (2) A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancellation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancellation.
- (3) No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.
- (4) The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:
  - (a) Obtaining a license through false or fraudulent representation;
  - (b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;
  - (c) Making any false promises of a character likely to influence, persuade, or induce;
  - (d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;
  - (e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;
    1. A real estate licensee shall not directly or indirectly buy property listed with him or her or with the broker with whom the licensee is affiliated, nor acquire an interest therein, without first indicating in writing on the offer to purchase his or her status as a licensee;
    2. Before a licensee becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;
    3. Before a licensee sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose, in writing, any interest in the property to all parties to the transaction;

- (f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker in accordance with a compensation agreement between them. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;
  - (g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of the principal broker with whom the licensee is affiliated;
  - (h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;
  - (i) Paying valuable consideration to any person for services performed in violation of this chapter;
  - (j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony or of a misdemeanor involving sexual misconduct the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction suspending the imposition of sentence;
  - (k) Failing to report a conviction, plea of guilty, or an "Alford" plea to a felony or a misdemeanor involving sexual misconduct to the commission;
  - (l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice;
  - (m) Acting in the dual capacity of licensee and undisclosed principal in any real estate transaction;
  - (n) Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;
  - (o) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with a consumer knowing that the consumer had a written outstanding contract granting exclusive agency with another real estate broker;
  - (p) Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;
  - (q) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;
  - (r) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;
  - (s) Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020 (4);
  - (t) Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;
  - (u) Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or
  - (v) Gross negligence.
- (5) Any conduct constituting a violation of the Federal Fair Housing Act including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (4)(u) of this section.
- (6) No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did not prevent it. The

principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. The failure of a broker or his designated manager to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter.

- (7) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

#### **324.162 Agent's duty to disclose.**

An agent licensed under this chapter representing a party in the sale, leasing, or exchange of real property shall have no affirmative duty to disclose to any person who acquires, by voluntary or involuntary transfer, a legal or equitable interest in real property, including any leasehold or security interest for an obligation, information not required by this chapter or applicable federal law.

#### **324.165 Prohibited business practices – Penalties.**

- (1) No person shall:
  - (a) Solicit or request a referral fee from a real estate licensee unless that person introduced the business to the real estate licensee from whom the referral fee is sought and a contractual referral fee relationship exists between the person and the real estate licensee; or
  - (b) Threaten to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a client of a real estate licensee because of an agency relationship.
- (2) No real estate licensee, relocation firm, or firm with a corporate relocation policy or benefits, or anyone on behalf of any licensee or firm, shall counsel a client of another real estate licensee regarding the manner in which the client may terminate or amend an existing listing contract, buyer agency agreement, or other agency relationship. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this section, as long as the communication does not involve advice or encouragement regarding the manner in which the client may terminate or amend an existing agency relationship.
- (3) Violation of this section by a broker or sales associate shall be considered improper conduct as referred to in KRS 324.160 (4)(u). Violation of this section by unlicensed persons shall be subject to the penalties in KRS 324.990.

#### **324.170 Hearing to precede any disciplinary action – Notice – Conduct of hearing.**

- (1) The commission shall, before denying an application for license or before ordering any disciplinary action against a licensee, order a hearing. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. If the applicant or licensee is a sales associate, the commission shall also notify the principal broker of the hearing by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker or his or her designated representative at the hearing.
- (2) All hearings shall be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers shall not order any disciplinary action against a licensee. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to prepare a recommended order to be submitted to the commission.
- (3) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct an emergency hearing as authorized by subsection KRS 324.150(1)(b).



**324.200 Hearing – Denial of license or any other disciplinary action – Appeal – Stay of judgment pending appeal.**

- (1) If the commission determines after a hearing that any applicant is not entitled to receive a license, a license shall not be granted to the applicant, and if the commission determines after a hearing that any licensee has violated any of the provisions of this chapter, the disciplinary measures in KRS 324.160(1) may be ordered.
- (2) Pursuant to KRS 13B.120(7), the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing shall hear and issue a final order regarding a decision of the commission.
- (3) An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (3) days after the issuance of the order to the Circuit Court of the county where the licensee has his or her principal place of business or where the license applicant resides. Disciplinary action imposed by the executive director shall be automatically stayed during the pendency of an appeal to a circuit or appellate court, unless otherwise indicated in the final order of the executive director.

**324.220 No other license to be issued for five years after revocation.**

No person who has had a broker's or sales associate's license revoked shall be issued another license for five (5) years from the date of revocation. All persons seeking issuance of another license after the five (5) year period of revocation may do so only at the discretion of the commission and shall retake the appropriate examination and meet all of the contemporary licensing requirements.

**324.230 Revocation or suspension of principal broker's license renders inactive the license of person associated with broker.**

The revocation or suspension of a principal broker's license shall automatically render inactive every license granted to any person by virtue of association with the principal broker whose license has been revoked or suspended, pending a change of principal broker and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

**Commercial Real Estate Brokerage**

**324.235 Definitions for KRS 324.235 to 324.238.**

As used in KRS 324.235 to 324.238, unless the context requires otherwise:

- (1) (a) "Commercial real estate" means any parcel of real estate located in this state that is:
  1. Lawfully used primarily for sales, retail, wholesale, office, research, institutional, warehouse, manufacturing, or industrial purposes;
  2. Lawfully used primarily for multifamily residential purposes involving five (5) or more dwelling units; or
  3. Zoned for a business or commercial use by a planning unit acting pursuant to KRS Chapter 100.
- (b) "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes or lots in a subdivision when sold, or residential units otherwise conveyed on a unit-by-unit basis, even if those units are a part of a larger building or parcel of real estate containing more than four (4) residential units;
- (2) "Cooperation agreement" means a written co-brokerage, referral, affiliation, or other agreement or arrangement between an out-of-state principal broker and a Kentucky cooperating broker;

- (3) "Kentucky cooperating broker" means a principal broker licensed under this chapter who has entered into a written cooperation agreement with an out-of-state principal broker;
- (4) "Out-of-state principal broker" means an individual who is licensed as a real estate broker in a jurisdiction other than Kentucky, and who is the designated broker with whom one (1) or more out-of-state licensees are affiliated or associated; and
- (5) "Out-of-state licensee" means an individual who is licensed as a real estate broker or real estate sales associate in a jurisdiction other than Kentucky, and who is affiliated or associated with an out-of-state principal broker.

**324.236 Engaging in commercial real estate brokerage by out-of-state principal broker and out-of-state licensee.**

An out-of-state principal broker and his or her out-of-state licensee, for or in the expectation of a fee, commission, compensation, or other valuable consideration, may engage in real estate brokerage with respect to commercial real estate if the requirements of this section are satisfied:

- (1) The out-of-state licensee shall be licensed with and work under the direct supervision of the out-of-state principal broker;
- (2) The out-of-state principal broker shall enter into a written cooperation agreement with the Kentucky cooperating broker that shall include but not be limited to the following:
  - (a) The terms of cooperation and compensation between the out-of-state principal broker and the Kentucky cooperating broker;
  - (b) A description of the parties, the commercial real estate, or other information sufficient to identify the specific transactions governed by the cooperation agreement; and
  - (c) The effective date and a definite termination date of the cooperation agreement; and
- (3) Regarding transactions that fall within the scope of the cooperation agreement specified in subsection (2) of this section, the out-of-state principal broker and the out-of-state licensee shall:
  - (a) Work in cooperation with a Kentucky cooperating broker;
  - (b) Furnish the Kentucky cooperating broker with a copy of the out-of-state principal broker's and out-of-state licensee's current real estate license from the jurisdiction of his or her primary place of business;
  - (c) Limit acts of real estate brokerage to commercial real estate transactions referenced in the cooperation agreement;
  - (d) Only list commercial real estate located in this state for sale, lease, or exchange if the real estate is co-listed with the Kentucky cooperating broker;
  - (e) Be prohibited from holding escrow funds, security deposits, or other moneys in escrow or other accounts located outside this state;
  - (f) Promptly provide the Kentucky cooperating broker with relevant documentation relating to the specific transaction or transactions governed by the cooperation agreement;
  - (g) Keep the Kentucky cooperating broker fully informed of all activities through prompt communications;
  - (h) Perform all actions under the direct supervision and control of the Kentucky cooperating broker;
  - (i) List his or her individual name, firm name, or both in advertising for commercial real estate transactions only if the advertising:
    1. Includes with equal prominence the same identifying information for the Kentucky cooperating broker and his or her relevant licensees, except that, with respect to multistate portfolio listings, only the name or firm of the Kentucky cooperating broker printed in legible type shall be mandatory, with no requirement concerning prominence; and
    2. Otherwise complies with the requirements of this chapter;

- (j) Comply with and be bound by and subject to Kentucky law and the regulations of the commission, including but not limited to KRS 324.235 to 324.238;
- (k) Not engage in improper conduct as set out in KRS 324.160(4); and
- (l) File with the Kentucky cooperating broker a true and complete notice of affiliation in compliance with KRS 324.327.

**324.237 Notice of affiliation with Kentucky cooperating broker required,**

- (1) A notice of affiliation required under KRS 324.236(3)(l) shall be filed with the Kentucky cooperating broker and shall include the following:
  - (a) The name, firm name, firm address, firm telephone number, and real estate license number of the Kentucky cooperating broker;
  - (b) The name, firm name, firm address, firm telephone number, address for service of process, and current real estate license numbers and jurisdictions of licensure of both the out-of-state principal broker and out-of-state licensee;
  - (c) The effective date and a definite termination date of the corresponding cooperation agreement between the Kentucky cooperating broker and the out-of-state principal broker;
  - (d) An agreement that the out-of-state principal broker and out-of-state licensee shall:
    - 1. Each comply with and be subject to KRS 324.235 to 324.238, Kentucky law, and administrative regulations promulgated by the commission;
    - 2. Not engage in improper conduct as set out in KRS 324.160(4); and
    - 3. Ensure that all documentation pertaining to transactions falling within the scope of the cooperation agreement complies with Kentucky law;
  - (e) The irrevocable consent of the out-of-state principal broker and out-of-state licensee that legal actions may be commenced against them in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside, by the service of process on the Kentucky Secretary of State pursuant to KRS 454.210, and stipulating and agreeing that service of process on the Kentucky Secretary of State shall be taken and held in all courts to be as valid and binding as if service had been made upon the out-of-state principal broker and out-of-state licensee in this state;
  - (f) A statement that the out-of-state principal broker and out-of-state licensee are trustworthy and competent to transact business in a manner to safeguard the interests of the public, and that during the five (5) year period prior to the filing of the notice of affiliation:
    - 1. No state has revoked the real estate license of the out-of-state principal broker or out-of-state licensee pursuant to a disciplinary action; and
    - 2. Neither the out-of-state principal broker nor the out-of-state licensee has been convicted of a felony in any jurisdiction; and
  - (g) A statement that the out-of-state principal broker and out-of-state licensee each consent to any criminal records check undertaken by the commission in connection with any investigation pursuant to KRS 324.150.
- (2) A notice of affiliation shall be true and complete and shall be signed or otherwise authenticated under penalty by both the out-of-state principal broker and out-of-state licensee.
- (3) An out-of-state principal broker and out-of-state licensee may enter into cooperation agreements and notices of affiliation with respect to more than one (1) Kentucky cooperating broker.

**324.238 Compliance with KRS 324.160(4) and 324.235 to 324.238 – Sanctions and penalties.**

For purposes of KRS 324.235 to 324.238:

- (1) A person licensed in a jurisdiction where there is not a legal distinction between a real estate principal broker and a real estate broker or salesperson shall satisfy the requirements of an out-of-state principal broker;
- (2) Preliminary exchanges of information and materials, discussions, and investment or other advice pertaining to commercial real estate shall not constitute acts of real estate brokerage by out-of-state principal brokers or out-of-state licensees;
- (3) If any change in circumstances prevents compliance by the out-of-state principal broker or out-of-state licensee, that person shall immediately cease and desist from performing acts of real estate brokerage with respect to commercial real estate; and
- (4) The commission may impose one (1) or more of the following sanctions or penalties against an out-of-state principal broker or an out-of-state licensee for failure to substantially comply with KRS 324.235 to 324.238 or for engaging in improper conduct as set out in KRS 324.160(4):
  - (a) Levy fines not to exceed one thousand dollars (\$1,000);
  - (b) Issue a formal or informal reprimand;
  - (c) Report misconduct to the licensing authority of any state;
  - (d) Revoke or suspend the authority of the out-of-state principal broker or out-of-state licensee to perform acts of real estate brokerage with respect to commercial real estate;
  - (e) Publish and maintain a public registry of any sanctions or penalties imposed pursuant to this subsection; and
  - (f) Report suspected violations of KRS Chapter 523 to the Commonwealth's attorney of the county in which the office of the commission is located.

**Kentucky Revised Statutes Continued**

**324.281 Kentucky Real Estate Commission – Members – Terms – Vacancies – Duties – Mandatory continuing education.**

- (1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint seven (7) persons, at least six (6) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the commission shall be for three (3) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section. A majority of the commission shall constitute a quorum for the transaction of business.
- (2) All appointments shall be for the specified three (3) year term. No person appointed after July 14, 2000, shall serve more than two (2) consecutive terms.
- (3) For each appointment or vacancy, the Kentucky Association of Realtors shall within sixty (60) days' supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments shall be made. The Governor may reject the list of three (3) names and request that the Kentucky Association of Realtors submit a new list of three (3) names within sixty (60) days of the Governor's request. If the Kentucky Association of Realtors fails to timely submit this list to the Governor, the Governor may immediately appoint a qualified person to fill this vacancy. The Governor may otherwise fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.
- (4) There shall not be more than four (4) members of any one (1) political party serving on the commission at the same time. No member of the commission shall reside in the same county as

another member. Appointees to fill vacancies shall be appointed for the unexpired term.

- (5) It shall be the duty of the commission to:
- (a) Promulgate administrative regulations, with the approval of the executive director of the Kentucky Real Estate Authority;
  - (b) Hold disciplinary hearings concerning matters in controversy as provided by this chapter;
  - (c) Conduct examinations for applicants eligible under this chapter or alternatively to contract with an entity to conduct examinations;
  - (d) Conduct necessary educational seminars and courses directed toward continuing education within the real estate field;
  - (e) Investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; and
  - (f) Participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes or administrative regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.
- (6) The commission, at its discretion, may use the funds necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.
- (7) The commission shall require all actively licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal.
- (8) The commission shall, by the promulgation of administrative regulations, develop a review process by which continuing education courses may be approved for credit. An applicant may seek the commission's approval for credit for courses not previously approved by the commission by submitting sufficient information describing the course to the commission for review.
- (9) The Governor shall set the compensation of the members of the commission, but voting members of the commission shall be compensated no less than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, commission members and commission staff may attend and travel to and from meetings and events relevant to the commission or to the industry the commission represents.

#### **324.2811 Automatic removal of member from commission.**

A member shall be automatically removed from the commission and a vacancy shall be created if:

- (1) A licensee of the commission ceases to be a broker or sales associate;
- (2) A consumer member of the commission acquires a license or financial interest in the practice of real estate;
- (3) A member enters a plea of guilty to, or has been found guilty of, a felony in which fraud is an essential element or to any crime involving moral turpitude and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal; or
- (4) A member ceases to be a bona fide resident of this Commonwealth.
- (5) A member displays incompetence, neglect of duty, or unprofessional conduct;

- (6) A member fails to adhere to a duly adopted code of ethics of the commission. Failure to adhere to this code shall be determined by official action of the commission; or
- (7) A member misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period.

#### **324.2812 Limitation of commission's jurisdiction.**

Nothing in this chapter or the administrative regulations promulgated under the authority of this chapter shall extend the jurisdiction of the Kentucky Real Estate Commission to community association managers and the management or business activities of not-for-profit community associations, which includes townhouse, condominium, homeowner, or neighborhood associations.

#### **324.282 Election of chairperson – Rules and regulations.**

The commission, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairperson. The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A and this chapter to effectively carry out and enforce the provisions of this chapter, but the commission shall not promulgate any administrative regulation which in any way fixes prices, establishes fees, or sets the rate at which licensees are compensated.

#### **324.284 Employees – Office – Equipment and supplies.**

The commission shall employ, and at its pleasure discharge, a secretary, and such clerks and assistants as shall be deemed necessary to discharge the duties imposed by the provisions of this chapter, and shall outline their duties and fix their compensation subject to the general laws of the state. The commission shall obtain such office space, furniture, stationary, fuel, light, and other proper conveniences, as shall be reasonable necessary for carrying out the provisions of this chapter.

#### **324.285 Seal – Records.**

The commission shall adopt a seal with the design the commission prescribes engraved thereon, by which it shall authenticate its proceedings. All records kept in the office of the commission under the authority of this chapter shall be open to public inspection under the administrative regulations as shall be prescribed by the commission.

#### **324.286 Disposition of fees – Payment of expenses.**

Except for the fees and charges paid by the licensees to the commission and deposited in the real estate education, research and recovery fund, all fees and charges collected by the commission under the provisions of this chapter shall be paid into the general fund in the State Treasury. All expenses incurred by the commission under the provisions of this chapter, including compensations to members, secretaries, clerks, and assistants, except those expenses designated for payment out of the real estate education, research and recovery fund, shall be paid out of the general fund in the State Treasury upon warrants of the director of finance as warrants generally are required to be drawn by the statutes governing such respective offices from time to time, when vouchers therefor are exhibited and approved by the commission; provided, that the total expense for every purpose incurred shall not exceed the total fees, charges, fines and penalties imposed under the provisions of this chapter and paid into the State Treasury. All expenses incurred by the commission and designated for payment out of the real estate education, research and recovery fund, including payments to aggrieved parties and the expenses of carrying on the educational and research requirements of KRS 324.410, shall be paid out of the real estate education, research and recovery fund in the same manner as required in this section for payments out of the general fund; provided, that the total expenses and payment for every purpose incurred and designated for payment out of the real estate education,

research and recovery fund shall not exceed the total fees, charges and interest received by the commission and paid into the real estate education, research and recovery fund of the State Treasury.

#### **324.287 Fees.**

The commission shall set, charge, and collect the following fees:

- (1) Examination fee, not to exceed one hundred dollars (\$100);
- (2) Broker's and sales associate's original biennial license fee, not to exceed sixty dollars (\$60);
- (3) Broker's and sales associate's biennial renewal fee, not to exceed sixty dollars (\$60);
- (4) (a) Transfer from one (1) principal broker to another, not to exceed ten dollars (\$10).  
(b) If the transfer is initiated by the principal broker for twenty (20) or more licensees, the transfer fee shall not exceed two hundred dollars (\$200);
- (5) Reactivation fee, not to exceed ten dollars (\$10);
- (6) Certification of status with the commission, ten dollars (\$10);
- (7) Request for any change, not to exceed ten dollars (\$10);
- (8) Biennial recovery fund fee, not to exceed sixty dollars (\$60);
- (9) Prelicensing education course review fee, not to exceed two hundred dollars (\$200);
- (10) Continuing and postlicensing education course review fee, not to exceed fifty dollars (\$50); and
- (11) Distance education course review fee, not to exceed seventy-five dollars (\$75).

#### **324.288 Affiliation fee.**

No affiliation fee shall be charged in any year to a licensee. As used in this section, "affiliation fee" means any fee or compensation paid by a licensee, to any person, for the privilege of listing his license with a particular principal broker, in records submitted to the commission.

#### **324.310 Delivery of sales associate's license to commission when association terminated -- Placing license in inactive status with commission -- Reactivating license.**

- (1) If any sales associate is discharged or terminates his or her association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license in a manner that complies with KRS 324.312, along with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his or her license has been delivered or mailed to the commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of the sales associate's license from and after the date of receipt of the license from the broker by the commission.
- (2) A licensee may place his or her license in inactive status with the commission provided that:
  - (a) The licensee does not engage in any real estate activity for others during the term of inactive status of the license;
  - (b) The licensee pays the biennial license renewal fees for each biennial renewal period the license is in inactive status; and
  - (c) The licensee obtains extended reporting period coverage insurance for one (1) year at the current minimum requirements then in effect prior to entering inactive status.
- (3) At the request of the licensee, after complying with subsection (4) of this section and upon the meeting of requirements applicable to active licensees, the commission shall reactivate a license placed in inactive status, in the absence of any reason or condition which might warrant the refusal of the granting of a license.

- (4) To reactivate a license, a licensee shall:
  - (a) Submit an acceptable criminal record check consistent with KRS 324.045(4);
  - (b) Complete all continuing education requirements required by the commission; and
  - (c) Pay the applicable reactivation fees.

#### **324.312 Commission's right for return of associate's license – Sanction for failure to return.**

- (1) A principal broker shall return an associate's license to the commission immediately:
  - (a) Upon the written termination of the association between the broker and the associate; or
  - (b) At any time upon the commission's request.
- (2) If a principal broker fails to return a license to the commission as required by subsection (1) of this section within five (5) business days, the commission shall consider the license as released, and the principal broker shall be in violation of subsection of KRS 324.160(4)(u).

#### **324.330 Notice of change of location, firm name, surname, or associate – New license.**

- (1) Notice in writing shall be given to the commission by each licensee of any change of principal business location, a change of firm name, sales associate's transfer from one (1) principal broker to another, or a change of surname. The commission shall issue a new license for the unexpired period and shall charge the fee as provided in KRS 324.287(7) for effecting the change on its records. This section shall apply to both brokers and sales associates.
- (2) The commission shall be notified in writing of a change of a residence address within ten (10) days.
- (3) A fee shall be assessed for certification of a licensee's status with the commission.
- (4) The commission shall, by the promulgation of administrative regulations, require all licensees to file with the commission, at biennial renewal, their telephone numbers and, if applicable, their electronic email addresses.

#### **324.360 Form for seller's disclosure of conditions.**

- (1) This section shall apply to sales and purchases involving single-family residential real estate dwellings if any person licensed under this chapter receives compensation.
- (2) The commission shall promulgate an administrative regulation authorizing a "seller's disclosure of conditions form."
- (3) The form shall provide for disclosure by the seller of the following:
  - (a) Basement condition and whether it leaks;
  - (b) Roof condition and whether it leaks;
  - (c) Source and condition of water supply;
  - (d) Source and condition of sewage service;
  - (e) Working condition of component systems; and
  - (f) Other matters the commission deems appropriate.
- (4) The seller of the property shall complete and sign the form at the time he or she executes any listing agreement or similar agreement by which a licensee intends to market the property. A copy of the form shall be provided by the listing agent to any prospective buyer or a buyer's authorized representative upon request. A copy of the form shall be delivered by the listing agent to any prospective purchaser or his representative within seventy-two (72) hours of the listing agent's receipt of a written and signed offer to purchase. The listing agent shall solicit the signature of the buyer on a copy of the form which the listing agent shall retain in the principal broker's records. The signature shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record

the buyer's refusal to sign on the form and retain a copy in his principal broker's records.

- (5) If the subject property is offered for sale by the property's owner without a listing agreement, any licensee involved in the transaction shall provide a blank form to the property's owner and shall request that the property's owner complete and sign the form. If the property's owner completes and signs the form, the licensee shall deliver the form to the buyer or potential buyer not later than one hundred twenty (120) hours after the creation of any executory contract for sale of the property. The licensee shall solicit the signature of the buyer on a copy of the form as delivered to the buyer or prospective buyer and shall retain the copy in his or her principal broker's records. The signature of the buyer or prospective buyer shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record the buyer's refusal to sign on the form and retain a copy in his or her principal broker's records.
- (6) The original of the form shall be retained by the listing broker or by the broker of any licensee who presents an offer on a property not subject to a listing agreement.
- (7) The form shall not be required for residential purchases of new homes if a warranty is offered, for a sale of real estate at an auction, or for a court supervised foreclosure.
- (8) If the seller refuses to complete and sign the form, his refusal shall be communicated in writing by the broker or sales associate who is involved in the transaction to the purchaser or prospective purchaser, without unreasonable delay.
- (9) It shall be a violation of this chapter for a licensee to complete any portion of the form unless the licensee is the owner of the property or has been requested by the owner to complete the form. The request shall be acknowledged in writing on the form and the licensee shall be held harmless for any representation that appears on the form.

#### **324.395 Errors and omissions insurance mandatory for all active status licensees -- Extended reporting period coverage insurance for inactive licensees.**

- (1) All real estate licensees, except those whose licenses are in inactive status in accordance with KRS 324.310(2), shall carry errors and omissions insurance to cover all activities contemplated under this chapter. Inactive licensees shall obtain extended reporting period coverage insurance for one (1) year at the current minimum requirements then in effect prior to entering inactive status.
- (2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.
- (3) Any policy obtained by the commission shall be available to all licensees with no right on the part of the insurance provider to cancel any licensee.
- (4) Licensees shall have the option of obtaining the required insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the commission.
- (5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.
- (6) Each licensee shall be notified of the required terms and conditions of coverage for the biennial policy at least thirty (30) days prior to the biennial license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the biennial license renewal date by each licensee who opts not to

participate in the group insurance program administered by the commission.

- (7) If the commission is unable to obtain the insurance coverage required by subsection (1) of this section to insure all licensees who choose to participate in the group insurance program at a reasonable annual premium, not to exceed two hundred dollars (\$200) per year for required insurance coverage and not to exceed two hundred dollars (\$200) per year for extended reporting period coverage, then the insurance requirement mandated by this section shall be void during the applicable contract year.

#### **324.400 Real estate education, research, and recovery fund - Fees.**

- (1) There is hereby created and established in the State Treasury the real estate education, research, and recovery fund.
- (2) In addition to the license fees provided for in KRS 324.287, upon renewal of every broker's and sales associate's license, as well as any and all other types of licenses, if any, issued by the commission, as of June 30, 1972, and every regular biennial renewal date thereafter, the commission shall charge each of the aforesaid licensees an amount not to exceed sixty dollars (\$60) per year to be included in the real estate education, research, and recovery fund. Each and every original applicant for a license after July 1, 1972, shall likewise submit to the commission an additional fee not to exceed sixty dollars (\$60) to be deposited in the real estate education, research, and recovery fund and shall also be subjected thereafter to a biennial renewal fee as of the regular renewal period.

#### **324.410 Purposes of fund.**

The purposes of the real estate education, research and recovery fund shall be as follows:

- (1) If a license, acting in the capacity of a licensee, has been duly found guilty of fraud in the violation of one (1) or more of the provisions of KRS 324.160, and upon the conclusion of a final order entered by the commission, or by the courts, if appealed, the commission, may pay to the aggrieved person or persons an aggregate amount not to exceed twenty thousand dollars (\$20,000) per claimant with combined payments to all claimants against any one licensee, not to exceed fifty thousand dollars (\$50,000), if the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order and if the amount or amounts of money in question are certain and liquidated.
- (2) The commission shall maintain a minimum level of four hundred thousand dollars (\$400,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the state employee's retirement system and the interest from the investments shall be deposited to the credit of the real estate education, research, and recovery fund. Sufficient liquidity shall be maintained so that there shall be money available to satisfy any and all claims which may be processed through the commission through the means of formal administrative hearing as outlined in this chapter.
- (3) The commission, in its discretion, may use any and all funds in excess of the four hundred thousand dollars (\$400,000) level, regardless of whether it is from the real estate education, research, and recovery fund fees or accrued interest thereon, for the following purposes:
  - (a) To carry out the advancement of education and research in the field of real estate for the benefit of those seeking a real estate license, and those licensed under the provisions of this chapter and the improvement and making more efficient the real estate industry;
  - (b) To underwrite educational seminars, caravans, and other forms of educational projects for the use and benefit generally of real estate licensees;
  - (c) To establish a real estate chair or courses at Kentucky state

institutions of higher learning for the purpose of making the courses available to licensees and the general public who may seek them on a college or university level.

- (d) To contract for a particular research project in the field of real estate for the Commonwealth of Kentucky;
  - (e) To sponsor, contract for, and to underwrite other educational and research projects of a similar nature having to do with the advancement of the real estate field in Kentucky;
  - (f) To receive recommendations and to cooperate and work with the Kentucky Association of Realtors and other real estate groups for the enlightenment and advancement of the real estate licensees of Kentucky; and
  - (g) To augment the trust and agency account for purposes of addressing cash flow shortfalls, budget deficits, and for reimbursement of personnel, administrative, operational, and capital expenses incurred by the trust and agency account pursuant to the purposes of the education, research, and recovery fund as provided in this section, an amount not to exceed two hundred fifty thousand dollars (\$250,000) annually.
- (4) Within one hundred (120) days after the end of each fiscal year, the commission shall make public, through its Web site or other public media, a statement of income and expenses of the real estate education, research, and recovery fund, the details of which are in accordance with state financial reports requirements.

#### **324.420 Collection by aggrieved party from recovery fund.**

- (1) An aggrieved party may commence an administrative action which may result in collection from the recovery fund by first filing a complaint with the commission on a form prepared by the commission. The complaint shall constitute a prima facie case that a licensee is in violation of KRS 324.160 and is subject to the same conditions set forth in KRS 324.150. If the complaint constitutes a prima facie case and the matter is not settled, the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.
- (2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.
- (3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.
- (4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.
- (5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may

challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

- (6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within one (1) year from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.
- (7) An aggrieved party shall not be entitled to recover compensation from the real estate education, research, and recovery fund, unless the compensation is for the actual financial harm suffered by the aggrieved party, and this financial harm is specifically and directly related to the property.
- (8) For purposes of this section, an "aggrieved party" shall mean either:
- (a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee and who believes that the licensee is in violation of the provisions of this chapter; or
  - (b) A member of the consumer public who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in his or her own property.
- (9) If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.
- (10) Any funds in excess of the four hundred thousand dollar (\$400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

#### **324.425 Closing existing business of deceased or incapacitated principal broker.**

In case of death or other incapacity of a principal broker having a licensed sales associate or sales associates affiliated at the time of death or other incapacity, the commission reserves the right in its discretion, based upon the merits of each case, to permit one (1) of the sales associates to complete and close the then existing business of the deceased or incapacitated broker for a temporary period not to exceed six (6) months.

#### **324.980 Persons to whom KRS Chapter 324 does not apply.**

Nothing in KRS Chapter 324 shall be construed to apply to a person engaged solely in the business of compiling and categorizing information concerning the location and availability of real property which may be leased or rented and who furnishes such information to prospective tenants for a fee.

#### **324.990 Engaging in real estate brokerage without license – Penalties**

- (1) Any person engaging in real estate brokerage without a license shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for any subsequent offenses. A person who engages in real estate brokerage without a license due to a failure to renew a previously valid Kentucky license shall not be subject to this penalty if the person is entitled to and does avail himself of the remedial provisions of KRS 324.090(3).
- (2) In addition to the penalties set out in this chapter, a Circuit Court may impose an additional penalty on any person who violates any

provision of this chapter by fining them not less than one hundred dollars (\$100) nor more than one thousand (\$1,000) or imprisoning them for a term not to exceed six (6) months, or both. Upon conviction, in addition to the aforesaid fine, there shall be added to the fine the amount of any real estate brokerage

commission paid or received as a result of the violation or violations in question. Each transaction shall be regarded as a separate offense and shall be punished as such.

## KENTUCKY ADMINISTRATIVE REGULATIONS KENTUCKY REAL ESTATE COMMISSION

In accordance with the laws of the Commonwealth, the following regulations have been approved by the Legislative Research Commission: This is an unofficial version. The official version can be found at [www.legislature.ky.gov](http://www.legislature.ky.gov).

### **201 KAR 11:011 Definition for 201 KAR Chapter 11**

#### **Section 1. Definitions.**

- (1) "Academic credit hour" means:
  - (a) One (1) college semester hour; or
  - (b) Sixteen (16) fifty (50) minute hours of actual classroom attendance.
- (2) "Advertising" or "advertisement" means any manner, method, or activity by which a licensee of the commission makes known a specific property for sale or lease or any services for which a real estate license is required. Advertising does not include:
  - (a) Private communications between a licensee and a client or prospective client; or
  - (b) Directional or pointer signs that only provide directions to a listed property and include no identifying licensee or brokerage information.
- (3) "Affiliated licensee" means a sales associate or a broker who is affiliated with a principal broker.
- (4) "Agency" means the specific consensual relationship between the principal broker and the client for a contemplated transaction, by oral or written agreement.
- (5) "Agency consent agreement" means the form prescribed by the commission and used by a principal broker and a client to establish the agency relationship in writing.
- (6) "Branch office" means a physical place of business for a real estate brokerage company in addition to the main office location that the commission may enter to inspect required documents or allegations of violations of KRS Chapter 324.
- (7) "Broker-affiliated training program" means one (1) or more post-license education courses offered for post-license educational credit provided or sponsored by a principal broker.
- (8) "Business relationship" means any arrangement, other than the current real estate transaction, if a licensee and a party have or had a mutual, ongoing financial interest in any company, corporation, or other income-producing venture, including any prior representation by the licensee for the party's purchase, lease, or sale of real estate.
- (9) "Client" means:
  - (a) A person or persons, or entity or entities, for whom a licensee provides real estate brokerage services:
    1. Who has entered into a written agreement with a principal broker for provision of real estate brokerage services;
    2. With whom or for whom a licensee completes an offer to purchase or lease for real estate; or
    3. For whom a licensee otherwise by oral agreement performs acts of real estate brokerage; and
  - (b) For the purposes of selling or leasing real estate, the client is the person or persons, or entity or entities, authorized to sell or lease the subject real estate.
- (10) "Commercial transaction" means a transaction other than the sale of a single-family residential property, multifamily property containing four (4) units or less, or single-family residential lot.
- (11) "Company" means an office or firm, headed by a principal broker, formed to offer real estate brokerage services, which is organized as:
  - (a) A registered business entity;
  - (b) Sole proprietorship; or
  - (c) Another business arrangement.
- (12) "Condominium" means:
  - (a) The absolute ownership of a unit in a multi-unit building based on a legal description of the airspace the unit actually occupies; or
  - (b) A separate dwelling unit in a multi-unit development, plus an undivided interest in the ownership of the common elements in the building or development, which are owned jointly with the other condominium unit owners.
- (13) "Confidential information" means:
  - (a) Information received or sent, verbally or in writing including transaction paperwork and files, by a licensee, that may materially compromise the negotiating position of a client or prospective client.
  - (b) Confidential information includes information that is not required to be disclosed by law; and
    1. Is provided to a licensee by a client or prospective client to a real estate transaction;
    2. Describes or affects the client or prospective client's bargaining position or motivation; or
    3. Is designated in writing as confidential by the client or prospective client.
- (14) "Consumer" means a person or entity with whom a licensee exchanges information that is public in nature, but otherwise does not perform acts of real estate brokerage and with whom no written or oral agency agreement or fiduciary relationship exists.
- (15) "Continuing education course" means a course approved pursuant to the requirements set forth in KRS 324.085(1) and 201 KAR Chapter 11.
- (16) "Contract deposit" means earnest money delivered to a licensee in conjunction with a real estate sales contract after:
  - (a) The offer or counteroffer is accepted; and
  - (b) An executory contract exists.
- (17) "Delivery" means transmission of an item to a party by:
  - (a) Mail;
  - (b) Facsimile transmission;
  - (c) Electronic mail;
  - (d) Hand; or
  - (e) Other legal means.
- (18) "Designated agency" means a type of agency prescribed by KRS 324.121(2).
- (19) "Designated agent" means one (1) or more licensees designated by the principal broker in accordance with KRS 324.121(1) to provide real estate brokerage services to a client.
- (20) "Distance education course" means a continuing or post-license education course or a pre-license course that:
  - (a) Is taught in a setting in which the teacher and the student are in separate locations; and
  - (b) Uses instructional methods that include internet-based training, computer-based training (CBT), satellite transmission, or teleconferencing.
- (21) "Dual agency" means a type of agency in which:
  - (a) The principal broker and all affiliated licensees simultaneously represent, in the same transaction, buyer and seller, or lessor and lessee, as clients of the principal broker in a limited fiduciary capacity; or
  - (b) In companies that practice designated agency, only the principal broker or a designated manager is a dual agent for that transaction pursuant to KRS 324.121(2).
- (22) "Duplex" means two (2) residential units sharing a single roof.



- (23) "Education cycle" means the time period commencing on January 1 of each year and ending at 11:59 p.m. on December 31 of each year.
- (24) "Family relationship" means any known familial relationship between a licensee and party.
- (25) "Fourplex" means four (4) residential units sharing a single roof.
- (26) "Fraud" or "fraudulent dealing" means a material misrepresentation that:
- (a) Is:
    1. Known to be false; or
    2. Made recklessly;
  - (b) Is made to induce an act;
  - (c) Induces an act in reliance on the misrepresentation; and
  - (d) Causes injury.
- (27) "Guaranteed sales plan" means an offer or solicitation to guarantee the:
- (a) Sale of an owner's real estate; or
  - (b) Purchase of the owner's real estate if the owner's real estate is not sold by the licensee.
- (28) "Initial sales associate license" means an original Kentucky sales associate license issued by the commission for the first time or a Kentucky sales associate license re-issued to a person who formerly held a license issued by the commission.
- (29) "Licensee" means a person properly licensed as a broker or sales associate to perform acts of real estate brokerage in accordance with KRS Chapter 324 and 201 KAR Chapter 11.
- (30) "Personal relationship" means a platonic or nonplatonic friendship between a licensee and a party.
- (31) "Post-license education course" means a course approved by the commission that satisfies a portion of the forty-eight (48) hours of education required by KRS 324.085(2).
- (32) "Pre-license course" means a course approved by the commission that satisfies an education requirement to obtain a real estate sales associate license.
- (33) "Promotional activities" means every solicitation or attempt to bring about the sale, exchange, lease, assignment, license, or award with regard to a timeshare interest in real estate.
- (34) "Prospective client" means a person or entity who has not entered into a written or oral agreement with a principal broker to provide real estate brokerage services, but to whom a licensee offers real estate brokerage services or from whom a licensee receives confidential information related to a contemplated real estate transaction.
- (35) "Renewal cycle" means the time period commencing on April 1 of each year and ending on March 31 two (2) calendar years thereafter.
- (36) "Security deposit" is defined by KRS 383.545(13).
- (37) "Single agency" is the type of agency if the principal broker and all affiliated licensees of the real estate brokerage company act as an agent for a buyer or seller, or a lessor or lessee, as the client on the same side of a transaction.
- (38) "Single family residential real estate dwelling" means any:
- (a) Stand-alone residential unit;
  - (b) Manufactured home permanently attached to land; or
  - (c) Residential unit otherwise conveyed on a unit-by-unit basis, even if the unit is part of a larger parcel of real estate containing more than two (2) detached residential units.
- (39) "Team" or "teams" is a group of licensees working together who are:
- (a) Affiliated with the same principal broker;
  - (b) Led by a team leader; and
  - (c) Representing themselves to the public utilizing the same authorized alternate or assumed name to brand, advertise, and broker real estate.
- (40) "Team leader" means an individual who is designated by his or her principal broker to be the head of the team.
- (41) "Timeshare" means an arrangement under which one may acquire, for a period of time, the right to use and occupy property, for a recurring block of time. A timeshare may be:
- (a) A timeshare estate, if a freehold estate or an estate for years is conveyed;
  - (b) A vacation lease, if a buyer purchases the right to occupy a specific accommodation for a specified time period over a specified number of years;
  - (c) A vacation license or club membership, if a buyer acquires the right to occupy an undesignated unit at certain real property or properties during a specific time each year for a specific number of years; or
  - (d) Variations of paragraphs (a) through (c) of this subsection that result in the acquisition of the right to use real property for a limited period of time in recurring intervals for a number of years.
- (42) "Townhouse" means a type of residential dwelling with two (2) floors that is connected to one (1) or more dwellings by a common wall or walls. Title to the unit and lot vest in the owner who shares a fractional interest with other owners in any common areas.
- (43) "Transactional brokerage" means a form of brokerage service or services provided to either or both parties to a transaction if the licensee owes to the parties only the duties owed to a consumer and if confidential information is not relayed between the parties by the licensee, unless so directed by the sending party.
- (44) "Triplex" means three (3) residential units sharing a single roof.
- (45) "Unrestricted license" means a license that is not under any order of limitation or discipline by another jurisdiction's regulatory body.
- (46) "Without delay" means as soon as reasonably possible based on the availability of the licensee and the client, and subject to any written agreement between them as to how and when written offers will be submitted.
- (47) "Without unreasonable delay" means:
- (a) For contract deposits or money belonging to others, within three (3) business days of the receipt by the principal broker or an affiliated licensee of the principal broker; or
  - (b) For notice required by KRS 324.360(8), within seventy-two (72) hours of the listing agent's receipt of the prospective purchaser's written and signed offer to purchase.

**201 KAR 11:105 Advertising**

**Section 1. Consent Required to Advertise a Specific Property.**

- (1) (a) A licensee shall not:
  1. Advertise real estate for sale or lease without the written consent of the owner;
  2. Place signage or another advertisement on any private or listed property without the written consent of the owner; or
  3. Promote or advertise a specific property listed by another principal broker unless the licensee has requested and obtained written consent from the listing principal broker.
- (b) Nothing in paragraph (a) 1. through 3. of this subsection shall prohibit a licensee from utilizing public information, including information regarding real estate closed by another licensee, to market his or her real estate brokerage services to consumers.
- (2) A licensee who served as a buyer's agent may advertise his or her role in a sale after a closing has occurred if the

advertisement clearly and visibly states that the licensee's participation was as the buyer's agent.

## **Section 2. Content Required.**

- (1) (a) The principal broker, or his or her designee, shall establish written standards for review and approval of advertising activity of the real estate company and affiliated licensees to ensure compliance with KRS Chapter 324 and 201 KAR Chapter 11.
- (b) Pursuant to KRS 324.160(6), a principal broker shall be held liable for acts by an affiliated licensee or licensees that the principal broker knew or should have known about that are in violation of either the principal broker's standards for review and approval, or KRS Chapter 324 and 201 KAR Chapter 11.
- (2) All advertisements shall include:
  - (a) The full name of the real estate brokerage company registered with the commission; or
  - (b) The full name of the principal broker registered with the commission, with a clear designation of principal broker status.
- (3) (a) An advertisement may include in written text an affiliated licensee's first and last name, or an alternate or assumed name as set forth in Section 4 of this administrative regulation, as registered with the commission, if the principal broker has informed the commission of the affiliated licensee's first and last name, or alternate or assumed name being used.
- (b) Each affiliated licensee shall be limited to the use of one (1) nickname in place of, or along with, the licensee's first name, and it shall be the responsibility of each individual licensee to inform the commission of the nickname being used. A nickname shall not be used unless the nickname is reflected on the licensee's online services portal before use.

## **Section 3. Display of Content Required.**

- (1) The content required by Section 2(2) of this administrative regulation shall be displayed in written text. The content shall:
  - (a) Be clear and visible to a typical observer of the advertisement; and
  - (b) Not be false, misleading, or deceptive.
- (2) (a) The content permitted by Section 2(3) of this administrative regulation shall not appear larger than the content required by Section 2(2) of this administrative regulation.
- (b) The requirements of paragraph (a) of this subsection shall not apply to the following promotional materials that advertise a licensee:
  1. Hats;
  2. Pens;
  3. Notepads;
  4. Apparel;
  5. Name tags; and
  6. The sponsorship of charitable and community events.
- (c) The commission shall waive the requirements of paragraph (a) of this subsection for specific promotional materials not stated in paragraph (b) of this subsection upon finding the proposed promotional material would not constitute false, misleading, or deceptive advertising.
- (3) (a) 1. For purposes of real estate company or licensee advertisement via internet, social media, or other digital or online forms of advertisement, every individual viewable page or post shall constitute a separate advertisement; and

2. Each advertisement shall contain the content required by Section 2(2) of this administrative regulation in the page or post header, or visible on the page or post without the observer scrolling or otherwise navigating the page or post to view the content required; or

- (b) If a page or post cannot reasonably comply with Section 2(2) of this administrative regulation, the advertisement shall include a clickable direct link, that is clear, visible, and identifiable as a link, to a page, post, or user account profile that contains the content required displayed in accordance with paragraph (a)2. of this subsection.
- (4) Advertisements that include an audiovisual presentation shall include an audible announcement or written display of the content required by Section 2(2) of this administrative regulation at the beginning of the advertisement.
- (5) Any internet, social media, and other digital or online form of advertising that was true and accurate at the time it was made shall not be in violation.
- (6) A logo that does not contain written text of the content required by Section 2(2) of this administrative regulation shall not constitute a substitute for the content required.
- (7) If the licensee's principal business location is outside Kentucky, the advertisement shall:
  - (a) Indicate that the licensee holds a Kentucky license to broker real estate; and
  - (b) Include the regulatory jurisdiction of the licensee's principal business location.
- (8) The requirements established by this administrative regulation shall not apply to logos, brands, or directional and open house signs if the logo, brand, directional, and open house signs do not contain the name of a sales associate.

## **Section 4. Use of Alternate or Assumed Names.**

- (1) More than one (1) licensee, whether a team, group, other business arrangement, or real estate brokerage company, may collectively use an alternate or assumed name for advertising with the written approval of the principal broker.
- (2) Prior to allowing the use of an alternate or assumed name in advertising, a principal broker shall:
  - (a) Register, or ensure the registration of, the alternate or assumed name with the commission; and
  - (b) Ensure that the alternate or assumed name is populated in the principal broker's or affiliated licensee's online services portal.
- (3) An alternate or assumed name shall not:
  - (a) Contain terms that may lead the public to believe the licensee or licensees approved to use the alternate or assumed name is offering real estate brokerage services independent of the principal broker, unless the alternate or assumed name is for the real estate brokerage company; or
  - (b) Be used by more than one (1) group of licensees within the principal broker's brokerage company, unless the alternate or assumed name is for the real estate brokerage company.
- (4) An alternate or assumed name may include reference to a name or person, if the name or person has not lost the ability to engage in real estate brokerage through administrative discipline or by operation of law.
- (5) If the alternate or assumed name applies to a team or group, the alternate or assumed name shall end with the word "team" or "group."

## **Section 5. False, Misleading, or Deceptive Advertising.**

- (1) False, misleading, or deceptive advertising is prohibited pursuant to KRS 324.117(1).

- (2) An advertisement is false, misleading, or deceptive, if the advertisement:
  - (a) Is known or reasonably should have been known to be false or contrary to fact at the time of placement of the advertisement;
  - (b) Misleads or misinforms the general public in any manner; or
  - (c) Would lead a reasonable observer to believe that real estate brokerage services were being offered by an affiliated licensee or licensees independent of their real estate brokerage company or principal broker.

**Section 6. Guaranteed Sales Plans.**

- (1) If a licensee advertises a guaranteed sales plan, the licensee shall disclose in writing whether:
  - (a) A fee is charged for participation;
  - (b) The real estate shall meet qualifications for participation;
  - (c) The purchase price under a guarantee of purchase of the owner's real estate shall be determined by the licensee or a third party;
  - (d) The owner of the real estate shall purchase other real estate listed for sale by the licensee or his or her designee; and
  - (e) An exclusive buyer agency agreement is required.
- (2) The advertisement may be in print or electronic display, on radio, or on television and shall be clear and understandable.
  - (a) For print or electronic display advertising, the letters shall be at least twenty-five (25) percent the size of the largest letter in the advertisement;
  - (b) For television advertising, written communication shall appear on the screen:
    - 1. At least three (3) seconds for the first line of lettering and at least one (1) second for each additional line of lettering; and
    - 2. In letters that shall be at least eighteen (18) video scan lines in size for uppercase letters or at least twenty-four (24) video scan lines for uppercase capital letters if uppercase capitals and lowercase letters are used.

**Section 7. Client Advertising.**

Consistent with KRS 324.117(4), a licensee shall advise his or her client of the advertising obligations contained in this administrative regulation.

**Section 8. Effective Dates.**

The commission shall begin enforcement of Section 3 of this administrative regulation six (6) months after the effective date of this administrative regulation.

**201 KAR 11:121 Standards of professional conduct**

**Section 1. Improper Conduct.**

- (1) In addition to the obligations and prohibitions set forth in KRS 324.160, a licensee shall not:
  - (a) Accept or agree to accept, or offer or agree to offer, anything of value to another person in violation of the federal Real Estate Settlement Procedures Act, 12 U.S.C. 2601 through 2617 ("RESPA"). This provision shall not affect paying or receiving referral fees between principal brokers for brokerage services;
  - (b) Refuse or prohibit any prospective purchaser from viewing or inspecting real estate listed for sale or lease with the real estate brokerage company with which the licensee is affiliated, without the written and signed direction of the listing or leasing client. This provision shall not be construed to permit otherwise unlawful discrimination;

- (c) Offer real estate for sale or lease without written consent from the person or persons, or entity or entities authorized to sell or lease the subject real estate;
- (d) Fail to satisfy one (1) or more of the following fiduciary duties owed to the licensee's client:
  - 1. Loyalty;
  - 2. Obedience to lawful instructions;
  - 3. Disclosure;
  - 4. Confidentiality;
  - 5. Reasonable care and diligence; and
  - 6. Accounting;
- (e) Fail to satisfy one (1) or more of the following duties owed to the licensee's prospective client:
  - 1. Good faith;
  - 2. Fair dealing; and
  - 3. The duty of confidentiality;
- (f) Fail to satisfy one (1) or more of the following duties owed to a consumer or to any other party in a transaction:
  - 1. Good faith; and
  - 2. Fair dealing;
- (g) Enter an ongoing team or group relationship with any other licensee at the same brokerage company without the written consent of the principal broker;
- (h) Induce any party to a contract for sale or lease to break the contract for the purpose of substituting in lieu thereof a new contract for sale or lease with another client;
- (i) If advertising real property at an absolute auction, sell the advertised property to anyone other than the highest bona fide bidder on the day of the auction; and
- (j) If dually licensed as an auctioneer and real estate licensee, before a real estate licensee commences an auction, the licensee shall disclose his or her status as a real estate licensee to potential purchasers and whether he or she intends to bid during the auction.
- (2) The fiduciary duty of confidentiality, if owed, shall survive the termination of the Agency Consent Agreement contemplated in Section 6 of this administrative regulation.
- (3) It shall not be considered improper conduct for a licensee to advertise the fee or other compensation the principal broker agrees to charge for his or her services.
- (4) It shall not be considered improper conduct for a licensee to offer rebates, discounts, or other inducements to consumers, prospective clients, or clients to use the licensee's services or truthfully advertise the same.
- (5) It shall not be considered improper conduct for a licensee to use his or her registered nickname in place of the licensee's first name anytime the licensee shall identify himself or herself on an official document or to the commission.

**Section 2. Submission of Written Offers.**

- (1) If a principal broker has entered into a written listing agreement, or any other written agreement, under the terms of which the principal broker agrees to provide real estate brokerage services for a fee, compensation, or other valuable consideration for the client, the principal broker shall provide, unless specifically waived or modified by the client in writing, for real estate that is the subject of the written agreement, the following services:
  - (a) Accept delivery and submit to the client, without delay, all written offers to lease or purchase;
  - (b) Accept all earnest money deposits that are presented to the principal broker or an affiliated licensee of the principal broker;
  - (c) Until the completion of the transaction, assist the client in developing, communicating, negotiating, and

- presenting offers, counteroffers, and notices that relate to offers and counteroffers; and
- (d) Answer the client's questions relating to offers, counteroffers, notices, and contingencies involved in the lease or purchase.
- (2) (a) Each principal broker, or an affiliated licensee of the principal broker, who represents a client shall, without delay, submit all written offers to lease or purchase real estate from the principal broker's client to the person or legal entity authorized to sell or lease the property or to the principal broker, or an affiliated licensee of the principal broker, who has entered into a written agreement according to subsection (1) of this section. A licensee representing a seller shall submit a notice in writing through electronic, text, or other media to the licensee representing a buyer of the date and time when the offer was presented to the seller.
- (b) If the principal broker is acting as a transactional broker, the principal broker shall follow the lawful instructions of the parties and provide the brokerage services as outlined in the transactional brokerage agreement.
- (3) Failure to comply with this section shall constitute gross negligence in violation of KRS 324.160(4)(v).

**Section 3. Listing and Purchase Contracts.**

- (1) A listing contract completed by or at the direction of a licensee shall include the:
- (a) Listing price of the property, unless the sale is to be by auction;
  - (b) Date and time of the signing of the listing contract for all parties who sign;
  - (c) First and last name of the principal broker and the full name of the real estate brokerage company;
  - (d) Effective date and time of listing and advertising, if different;
  - (e) Date of expiration of the listing contract;
  - (f) Fee, compensation, or other valuable consideration agreed upon between the principal broker and the client;
  - (g) Address or a general description of the real estate sufficient to identify the parcel or parcels;
  - (h) Signatures and printed names of all parties necessary to affect a sale of the property, including any dower or courtesy considerations or the official representative of a legal entity, that is the subject of the listing agreement;
  - (i) Special directions of the client concerning limitations or restrictions on showings; and
  - (j) Date, time, and initials for all changes on the contract prior to acceptance.
- (2) An offer to purchase completed by, or at the direction of, a licensee shall include the:
- (a) Purchase price or a valid escalation clause with the maximum purchase price;
  - (b) Amount of contract deposit, if given, who is to hold the deposit, and the time period to deliver the deposit;
  - (c) Date and time of signing of the offer for all parties who sign;
  - (d) Date and time when the offer expires;
  - (e) Address or a general description of the real estate sufficient to identify the parcel or parcels;
  - (f) Signatures of all parties making the offer and the printed first and last name of the licensee who completed or directed the completion of the offer;
  - (g) Date, time, and initials for all changes on the contract prior to acceptance;
  - (h) Provision setting forth the date by which, or the date range within, the closing shall occur and when possession shall be given to the buyer; and
  - (i) Proposed payment terms.

- (3) A counteroffer completed by, or at the direction of, a licensee shall include any amendments to any term required by subsection (1) and (2) of this section and:
  - (a) Date and time of signing of the counteroffer for all parties who sign;
  - (b) Date and time when the counteroffer expires;
  - (c) Signatures of all parties making the counteroffer;
  - (d) The first and last name of the licensee who completed or directed the completion of the offer, if not found on the original offer or a previous counteroffer; and
  - (e) Date, time, and initials for all changes on the contract prior to acceptance.
- (4) (a) If a licensee presents an offer to purchase real estate for which an executory contract to sell the property is already in existence, the offer shall include language that indicates in writing that the offer is contingent upon the nonperformance of the existing executory contract.
- (b) The contingency language required by paragraph (a) of this subsection shall indicate the disposition of any contract deposit and be:
  - 1. Inserted by the licensee who completes or prepares the offer to purchase, if licensee is aware of the existing contract; or
  - 2. Made by the listing licensee as a counteroffer.
- (5) If financing is involved, a contract providing for the purchase of property shall specifically state:
  - (a) The manner in which the purchase shall be financed; and
  - (b) The amount of any encumbrance and whether it is to be underwritten by the seller or a commercial institution or otherwise.
- (6) Any agreement for compensation, including rebates and inducements, from a licensee to his or her client shall be in writing.
- (7) (a) Prior to the expiration of a current listing agreement, another licensee shall not contact the seller to obtain a subsequent listing agreement.
- (b) Notwithstanding paragraph (a) of this subsection, a licensee may discuss newly listing the seller's property that is currently listed if:
  - 1. The seller initiates contact with the new licensee to obtain a new listing contract;
  - 2. The proposed listing contract states that it shall not take effect until the expiration of the seller's current listing contract with the original licensee; and
  - 3. The licensee and seller properly complete and sign the Seller-Initiated Listing Form. Nothing in this subsection shall prohibit a licensee from approaching a seller to list the seller's property following the seller's cancellation of their current listing contract or expiration of the current listing contract.
- (8) If a licensee fails to comply with the requirements in this section, the licensee's conduct and dealings shall be considered improper in violation of KRS 324.160(4)(u).

**Section 4. Required Disclosures.**

- (1) A licensee shall direct the seller-client of a single family residential real estate dwelling, duplex, triplex, fourplex, condominium, or townhouse to accurately complete and sign the Seller's Disclosure of Property Condition form required by KRS 324.360, including all necessary initials and signatures, unless the seller-client refuses and documents his or her refusal, or the licensee documents the seller-client refusal, on the Seller's Disclosure of Property Condition form.

- (2) A licensee who is involved in the brokerage of a condominium transaction shall advise the client in writing of the client's right to receive the Condominium Seller's Certificate required by KRS 381.9203(1) and the purchasing client's right to void the sales contract consistent with KRS 381.9203(3).

#### **Section 5. Prospective Client Disclosures.**

- (1) A licensee shall complete, time and date, and deliver to the appropriate prospective client the commission's Guide To Agency Relationships at the earliest of the following times:
- (a) Prior to entering into a contemplated written agreement to provide real estate brokerage services for compensation with a prospective client;
  - (b) Prior to entering into a contemplated oral agreement to provide real estate brokerage services with a prospective client; or
  - (c) Prior to signing an agency consent agreement.
- (2) The licensee shall solicit the signature of the prospective client on the Guide to Agency Relationships as acknowledgement by the prospective client of his or her receipt. The licensee shall maintain a record that the prospective client signed the Guide to Agency Relationships. If the prospective client refuses to, or does not, sign the Guide to Agency Relationships upon receipt, the licensee shall document the delivery, or attempted delivery, including a date and time, to the appropriate prospective client.
- (3) The completed Guide to Agency Relationships shall provide or include:
- (a) The agency relationships available between the licensee and client or party in Kentucky;
  - (b) The first and last name of the licensee completing the form, the first and last name of the principal broker of the licensee, and the full name of the licensee's real estate company;
  - (c) The name of the prospective client; and
  - (d) The signature, time, and date of signing by the prospective client.
- (4) The provisions of this section shall not apply to:
- (a) The sale of real estate at auction; or
  - (b) A commercial transaction.

#### **Section 6. Agency Consent Agreement.**

- (1) Prior to entering into a written agreement to provide real estate brokerage services or completing, or directing the completion of, a contract, offer, or lease for a real estate transaction:
- (a) The licensee shall complete and deliver the Agency Consent Agreement to the prospective client; and
  - (b) Seek and obtain written consent to the Agency Consent Agreement from the prospective client.
- (2) The commission's Agency Consent Agreement shall provide:
- (a) The first and last name of the client, the first and last name of the licensee or licensee's and principal broker, and the full name of the real estate brokerage company;
  - (b) The specific agency relationship proposed between the principal broker of the real estate brokerage company, and any affiliated licensee of the real estate brokerage company, and the prospective client;
  - (c) If applicable, any known business, family, or personal relationship the licensee has with another party to the contemplated transaction who is not a party to the Agency Consent Agreement and an explanation of the nature of the relationship or relationships;
  - (d) Whether the transaction involves an unrepresented party; and

- (e) Disclosure of prior contact with a former prospective client who is involved in the presently contemplated real estate transaction.
- (3) The Agency Consent Agreement shall be updated, and written consent obtained, if the agency relationship initially established later changes.
- (4) The provisions of this section shall not apply to a:
- (a) Sale of real estate at auction; or
  - (b) Commercial transaction.
- (5) The form of agency identified in the most recent Agency Consent Agreement shall terminate upon either:
- (a) The provision of the agreed upon services; or
  - (b) At the closing of the contemplated real estate transaction.

#### **Section 7. Affiliation.**

- (1) The principal broker shall be the owner of all written contracts for provision of real estate brokerage services, including items such as listing contracts, purchase contracts, and exclusive agency agreements.
- (2) When a principal broker, or a licensee acting on behalf of the principal broker, enters into a written agreement with a client, an agency relationship is formed, and the client is the principal.
- (3) Absent operating as a designated agency company, each licensee affiliated with the real estate brokerage company shall have the same agency relationship with respect to a client, prospective client, or party as the principal broker in an in-house transaction.
- (4) If only one (1) broker is affiliated with a company, he or she shall be the principal broker.
- (5) If one (1) or more additional licensees is affiliated with the company, one (1) broker shall be the principal broker registered with the commission.
- (6) (a) Unless there is a written contract stipulating otherwise, a licensee shall, upon termination of his or her affiliation with his or her principal broker, immediately turn over to the principal broker all records described in Section 9(1)(a)-(h) of this administrative regulation obtained during his or her affiliation regardless of whether the information was originally received from his or her principal broker, copied from the records of the principal broker, or acquired by the licensee during his or her affiliation.
- (b) Nothing in paragraph (a) of this subsection shall require an affiliated licensee to deliver to the principal broker records which the principal broker is not under an obligation to retain consistent with this administrative regulation or records which are already in the principal broker's possession.
- (7) (a) A principal broker may be principal broker of more than one real estate brokerage company.
- (b) A principal broker shall not also be an affiliate broker at another real estate brokerage company, except for as provided in KRS 324.112(5).
- (8) A sales associate or broker affiliated with a principal broker shall only be affiliated with one principal broker at one office, or branch office, location.
- (9) A real estate brokerage company may have more than one (1) physical office location, including branch offices.

#### **Section 8. Facsimile and Digital Transmissions.**

- (1) A licensee may use facsimile (FAX) devices and digital transmissions to transmit and receive documents according to the provisions of KRS Chapter 369 and 201 KAR Chapter 11.
- (2) A document received by facsimile devices or digital transmissions shall be immediately placed in the licensee's file and retained as required by this administrative regulation.

### Section 9. Principal Broker Duties and Prohibitions.

- (1) A principal broker shall confidentially preserve, either in hard copy or digital format, for five (5) years following its consummation or failure, records in one (1) file relating to any real estate transaction, which shall include:
  - (a) Any written offers to lease or purchase the real estate;
  - (b) The acquisition and disbursement of any monies;
  - (c) Listing and sales contracts or leases;
  - (d) Closing sheets;
  - (e) Seller's Disclosure of Property Condition and Condominium Seller's Certificate forms;
  - (f) Agency Consent Agreement forms;
  - (g) Guide to Agency Relationships forms; and
  - (h) Timeshare records.
- (2) A principal broker who engages in property management shall also confidentially preserve, either in hard copy or digital format, for five (5) years:
  - (a) Property management agreements;
  - (b) Leases;
  - (c) Monthly owner statements and reports;
  - (d) Owner and unit ledgers; and
  - (e) Bank statements relating to property management.
- (3) If the death or incapacity of the principal broker occurs, records required to be maintained pursuant to this section shall be maintained by:
  - (a) A new principal broker or a designated manager, so designated previous to the time of the death or incapacity of the principal broker to maintain the records;
  - (b) The real estate brokerage company of the principal broker at the time of the death or incapacity of the principal broker, if the company continues to be an active company;
  - (c) A licensee designated by the commission to maintain the records and serve as the principal custodian of the records, without any liability or obligation, other than to confidentially maintain the records and to provide the records to a party as required by law or by demand of the commission; or
  - (d) Any appointee of the commission who will agree to maintain the records and serve as the principal custodian of the records, without any liability or obligation, other than to confidentially maintain the records and to provide the records to a party as required by law or by demand of the commission.
- (4) At the time of signing all documents, the principal broker, or an affiliated licensee of the principal broker, shall ensure that a copy of all documents are delivered to all parties executing the documents if the document has been provided, prepared by, or at the direction of the principal broker or an affiliated licensee of the principal broker.
- (5) The principal broker, an affiliated licensee of the principal broker, shall ensure that a debit and credit type closing statement is furnished to a client upon closing a real estate transaction unless the financial institution, title agency, the attorney involved, or other authorized individuals, has prepared the closing statement.
- (6) A principal broker shall not be a party to an exclusive listing contract which contains an automatic continuation of the period of the listing beyond the fixed termination date set forth therein.
- (7) If a principal broker permits teams, a principal broker shall notify the commission in writing of the alternate or assumed name used by the team and the name of the team leader before permitting team advertising.

- (8) If a principal broker authorizes team, group, or other business arrangements between affiliated licensees, the principal broker shall:
  - (a) Offer, at a minimum, company procedures for advertising, agency relationships and handling confidential information, management and operations specific to team, group, or other business arrangements between affiliated licensees;
  - (b) Designate a licensee who shall be responsible, along with the principal broker and designated manager, for the operations of the team, group, or other business arrangement. The designated licensee shall be referred to as the "team leader" regardless of how the team, group, or other business arrangement labels itself;
  - (c) Maintain a current list of all affiliated licensees, employees, office personnel, and clerical staff who are a part of each individual team, group, or other business arrangement; and
  - (d) Notify the commission in writing of the first and last name and license number of the team leader.
- (9) A principal broker shall ensure any employee or unlicensed personal assistant, salaried or independently contracted, employed by, retained by, or under the direction of the principal broker or any affiliated licensee, are in compliance with the applicable provisions of KRS Chapter 324 and 201 KAR Chapter 11.
- (10) A principal broker shall implement and maintain an appropriate information security system that shall:
  - (a)
    1. Notify licensees, management, employees, officer personnel, and clerical staff of company policy and procedures related to confidential information, including in-person interactions or discussions in the office environment;
    2. Prohibit the disclosure of confidential information by licensees, management, employees, office personnel and clerical staff;
    3. Require notification to each client involved in a transaction, if the principal broker becomes aware of an unauthorized or inadvertent disclosure of confidential information relating to that transaction; and
    4. Prohibit an employee from assisting more than one (1) designated agent in the same transaction if the designated agents represent different clients in that transaction.
  - (b) Nothing in this provision shall prohibit a licensee who is party to an Agency Consent Agreement from maintaining a separate individual client file containing confidential information.
- (11) A principal broker of a real estate brokerage company that practices designated agency shall require that all documents that contain confidential information relating to a client be kept in an individual file maintained by the principal broker and accessed only by the principal broker, designated manager, or designated agent appointed by the principal broker to represent the individual.
- (12) A principal broker who appoints a designated manager of the real estate brokerage company, a registered company branch, team, group, or other business arrangement shall notify the commission in writing of the name of the designated manager within ten (10) days of the appointment.

### Section 10. Property Management.

- (1) A principal broker, or an affiliated licensee, shall not engage in property management without a current written property management agreement.
- (2) A property management agreement shall contain, at a minimum:

- (a) The full name and address of the principal broker's real estate brokerage company as registered with the commission;
  - (b) The name and address of the client for whom the property is being managed;
  - (c) The address of the real estate being managed and the number of units;
  - (d) The effective dates of the agreement, and a provision stating whether the client agrees to automatic annual renewal;
  - (e) A provision stating the method for early termination;
  - (f) The amount of, or the method for computing, the amount of compensation to the principal broker;
  - (g) The amount of, or the method of determining, the minimum security deposit to be collected from tenants for each unit managed;
  - (h) The name and address of the bank where the principal broker's escrow or management account is held, and, consistent with KRS 383.580(1), the account number. This information shall also be contained in the lease;
  - (i) A provision which is in accord with KRS 383.580 setting forth the procedures governing returning or retaining the security deposit. This provision shall also be contained in the lease;
  - (j) A provision setting forth the conditions under which the principal broker may pay expenses related to the real estate being managed;
  - (k) A statement setting forth the date when the principal broker shall send the client an accounting of the transactions related to the real estate being managed;
  - (l) A copy of the form of the lease document which the principal broker shall have the tenant sign shall be attached to the agreement;
  - (m) A provision whereby the client certifies that he or she has received a duplicate copy of the agreement and the attached lease form; and
  - (n) The signature and date of signature of the client and the principal broker.
- (3) A principal broker shall maintain, in electronic or written form:
- (a) An owner ledger for each client of real estate being managed;
  - (b) A unit ledger for each unit in the real estate being managed; and
  - (c) Upon the written request of the client of the property being managed, the principal broker shall provide a unit ledger by tenant.
- (4) Money received shall be deposited into an escrow or management account of the principal broker within three (3) business days of receipt.
- (5) The amount of money received shall be entered into the owner and unit ledgers.
- (6) A receipt shall be given for money received.
- (7) Expenses paid by the principal broker shall be documented by invoice or receipt, by unit, and retained with a principal broker's records.
- (8) Adjustments to a security deposit shall be made in accordance with KRS 383.580. Adjustments shall also be entered on the owner and unit ledgers.
- (9) On the date determined by the parties, a principal broker shall send a monthly accounting to a client of transactions related to the real estate being managed, by unit.
- (10) Within sixty (60) days of the termination of a management agreement, a principal broker shall send the client a final accounting that contains any transaction that occurred after the last monthly accounting.

- (11) A principal broker who has an ownership interest in the real estate being managed shall:
- (a) Maintain a unit ledger for each unit in the real estate being managed; and
  - (b) Comply with KRS 383.580 relating to receipt, deposit, and adjustment of tenant security deposits.

**Section 11. Incorporation by Reference.**

- (1) The following material is incorporated by reference:
- (a) "Seller-Initiated Listing Form", KREC Form 403, 10/2019;
  - (b) "Seller's Disclosure of Property Condition", KREC Form 402, 12/2019;
  - (c) "Condominium Seller's Certificate", KREC Form 404, 10/2019;
  - (d) "Guide to Agency Relationships", KREC Form 400, 10/2019;
  - (e) "Agency Consent Agreement - Buyer", KREC Form 401B, 10/2019;
  - (f) "Agency Consent Agreement - Seller", KREC Form 401S, 10/2019.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available from the commission's Web site: [www.krec.ky.gov](http://www.krec.ky.gov).

**201 KAR 11:170 Education provider requirements**

**Section 1. Education Providers.**

- (1) (a) Accredited institutions and approved real estate schools may teach:
- 1. Pre-licensing education;
  - 2. Post-licensing education;
  - 3. Continuing education; and
  - 4. Broker curriculum education.
- (b) Consistent with KRS 324.010(7)(b), National Association of Realtors (NAR) recognized programs that meet the following criteria shall be an approved real estate school:
- 1. Has a school administrator;
  - 2. Is an affiliated organization with NAR or the Kentucky Realtors; and
  - 3. Would otherwise be regulated by Kentucky Commission on Proprietary Education, but the program is entitled to exemption from certification by Kentucky Commission on Proprietary Education.
- (2) National Association of Realtors (NAR) recognized programs that do not meet the criteria established in subsection (1)(b) in this section shall only teach:
- (a) Post-licensing education;
  - (b) Continuing education; and
  - (c) Designation courses toward broker curriculum.
- (3) Governmental bodies shall only teach post-licensing education and continuing education.
- (4) Broker-affiliated training programs may teach post-licensing education.

**Section 2. Accredited Institutions and Approved Real Estate Schools; Initial Application for Provider Approval.**

- (1) To apply for initial certification, an approved real estate school shall submit:
- (a) A completed Education Provider Application and Renewal Form, KREC Form 101, signed by the education provider's administrator or representative;
  - (b) A copy of the license or certification from the Kentucky Commission on Proprietary Education, if applicable;

- (c) A sample copy of an official transcript or certificate that will be issued by the school;
- (d) 1. A copy of a sample contract or agreement, to be signed by the student, that outlines the class schedule, assignments or projects, examination requirements, grading system, and attendance requirements;
- 2. An approved real estate school offering a prelicensing course shall include a statement in the school application that a criminal conviction may, consistent with KRS Chapter 335B and 201 KAR 11:210, Section 6, prevent an applicant from qualifying for licensure under KRS 324.045;
- (e) 1. An acceptable explanation of how the provider will verify a student's identity, ensure the student completes the course, and maintain the anonymity of student evaluations;
- 2. For classroom courses, at a minimum, the provider shall require a student to sign in and sign out of each course; and
- (f) Any documentation necessary to explain an answer on the application.
- (2) To apply for renewal of an approved real estate school's approval, an approved real estate school shall submit an Education Provider Application and Renewal Form, KREC Form 101, signed by the education provider's administrator or representative, outlining any changes in the information submitted pursuant to subsection (1) of this section.
- (3) After the initial approval, an approved real estate school shall renew annually consistent with subsection (2) of this section.
- (4) An approved real estate school shall notify the commission in writing within ten (10) days of a substantive change in the information submitted on the initial or renewal application or in an attachment thereto.

**Section 3. Education Provider; Initial Application for Provider Approval.**

- (1) To apply for initial certification, an education provider offering continuing education or post-license education shall submit:
  - (a) An Education Provider Application and Renewal Form, KREC Form 101, signed by the education provider's administrator or representative;
  - (b) A sample copy of an official transcript or certificate that will be issued by the provider;
  - (c) 1. An acceptable explanation of how the provider will verify a student's identity, ensure the student completes the course, and maintain the anonymity of student evaluations;
  - 2. For classroom courses, at a minimum, the provider shall require a student to sign in and sign out of each course; and
  - (d) Any documentation necessary to explain an answer on the application.
- (2) To apply for renewal of an education provider's approval, the education provider shall submit an Education Provider Application and Renewal Form, KREC Form 101, signed by the education provider's administrator or representative, outlining any changes in the information submitted pursuant to subsection (1) of this section.
- (3) After the initial approval, an education provider shall renew annually consistent with subsection (2) of this section.
- (4) An education provider shall notify the commission in writing within ten (10) days of a substantive change in the information submitted on the initial or renewal application or in an attachment thereto.

**Section 4. Education Course Curriculum Requirements.**

- (1) All courses shall consist of topics that:

- (a) Are generally applicable to real estate, including the other professions governed by the Kentucky Real Estate Authority; or
- (b) Are specific to Kentucky real estate license law and regulation.
- (2) To be approved as an education course, a course shall:
  - (a) Increase the student's knowledge of the real estate brokerage business; and
  - (b) Protect the public interest.
- (3) Education providers approved by another real property board under the Kentucky Real Estate Authority may submit courses approved by the primary real property board to the commission for approval as a post-licensing and continuing education course.
- (4) A course that is solely motivational or considered to be personal development in nature shall not be approved.
- (5) The curriculum for a sales associate pre-license course at an approved real estate school shall:
  - (a) Be conducted for a maximum of nine (9) hours during a calendar day;
  - (b) Include course content on each of the following topics:
    1. Introduction to the real estate business;
    2. Real property and the law;
    3. Forms of ownership and interests in real estate;
    4. Land description;
    5. Transfer of title;
    6. Title records;
    7. Real estate brokerage;
    8. Real estate agency;
    9. Client representation agreements and required disclosures;
    10. Real estate contracts;
    11. Real estate financing;
    12. Closing a real estate transaction;
    13. Real estate taxes and other liens;
    14. Real estate appraisal and land valuation analysis;
    15. Leases;
    16. Fair Housing;
    17. Property Management;
    18. Land Use controls and property development;
    19. Environmental issues in the real estate transaction; and
    20. Kentucky real estate licensing law.
  - (c) 1. Instruction on all topics, except Kentucky specific law and regulation, shall be from a text approved by the commission.
  - 2. To have a text approved by the commission, an education provider shall submit to the commission the proposed text and a written explanation of how the text covers the course content on the required topics.
  - (d) Be a course for academic credit consisting of content focused on real estate, but shall not be a continuing education unit, examination preparation or review, experiential education, or competency testing;
  - (e) Include a scenario-based practicum or project applicable to the practice of real estate brokerage that:
    1. Is to be completed by the individual student, without peer assistance, before sitting for the final examination;
    2. Contemplates the use of at least three (3) commission approved transaction related forms;
    3. Requires completion of:
      - a. A real estate purchase contract or a real estate listing contract; and
      - b. A market analysis of property value.



4. Requires application of topics covered in the sales associate pre-licensing course relating to a transaction based experience; and
  5. Is graded on a pass-fail scale.
  - (f) Be designated specifically as a real estate course by an approved education provider;
  - (g) Include a closed-book monitored final examination that shall:
    1. Consist of 100 multiple choice questions which shall evaluate the student's practical application of real estate principles;
    2. Require a passing score of at least seventy-five (75) percent; and
    3. Cover all aspects of material covered in the course, including applicable Kentucky licensing laws and administrative regulations; and
  - (h)
    1. The pre-licensing provider shall not allow a student to take the final examination more than three (3) times, unless the student retakes the sales associate pre-licensing course;
    2. A student may retake the final examination no earlier than the fourth day following the date of a failure;
    3. After the second failure, the pre-licensing provider shall provide the student with documentation of the area or areas of deficiency and the opportunity for additional training on the student's area or areas of deficiency consistent with the provider's student enrollment agreement.
  - (6) Approved pre-license education providers and instructors shall take appropriate steps to maintain the confidentiality of the final examinations. These steps shall include:
    - (a) Storing examinations and answer keys in a secure place accessible only to the school administrator and the instructor;
    - (b) Prohibiting students from retaining copies of the final examination and answer sheets;
    - (c) Monitoring students continuously during examinations; and
    - (d) Notifying the commission if an examination is compromised.
  - (7) The curriculum for a post-license education course shall be in hourly increments from one (1) to nine (9) hours with one (1) hour of course credit allowed for each fifty (50) minutes of actual instruction and consist of thirty-two (32) hours from the courses established in paragraphs (a) and (b) of this subsection and sixteen (16) hours as established in paragraph (c) of this subsection:
    - (a) The three (3) hour Commission Licensee Compliance course, which shall instruct new licensees on:
      1. License statuses and the administrative processes relative to keep a license active and in good standing;
      2. A review of controlling definitions;
      3. A review of agency principles;
      4. Overview of commission duties and functions and relationships with other governmental bodies, regulatory bodies, and professional associations; and
      5. A review of disciplinary procedures and administrative case studies.
    - (b) The requirements in each of the following course topics:
      1. Six (6) hours in Agency;
      2. Six (6) hours in Contracts;
      3. Three (3) hours in Finance;
      4. Three (3) hours in Advertising;
      5. Three (3) hours in Disclosure;
      6. Three (3) hours in Fair Housing;
      7. Three (3) hours in Technology and Data Security; and
      8. Two (2) hours in Risk Management; and
    - (c) Sixteen (16) additional hours in approved mandatory courses in excess of the prescribed hours listed in paragraph (b) of this subsection or in the following elective topics chosen by the licensee:
      1. Real Estate Auctions;
      2. Anti-trust;
      3. Appraisals
      4. Home inspections;
      5. Land Use;
      6. Property Rights;
      7. Property Management;
      8. Real Estate Investments; and
      9. Business Planning.
    - (d) Contain course content, objectives, and assessments that include scenario-based case studies designed to ensure the application of current real estate information and knowledge to practical brokerage scenarios.
    - (e) If a licensee takes a post-licensing education course with the same course number more than once, the licensee shall only receive credit for one (1) course completion.
  - (8)
    - (a) The curriculum for a continuing education course shall be in hourly increments from one (1) to nine (9) hours with one (1) hour of continuing education allowed for each fifty (50) minutes of actual instruction.
    - (b) If a licensee takes a continuing education course with the same course number more than once in an education cycle, the licensee shall only receive credit for one (1) course completion.
  - (9) All course content required by this administrative regulation shall be submitted to the commission for review and consideration prior to the approval of the course.
- Section 5. Pre-license Course Approval for Sales Associates.**
- (1) To obtain approval for a sales associate pre-license course, an approved education provider shall submit a Pre-license Course Application and Renewal Form, KREC Form 102, for each course for which approval is sought, at least ninety (90) days prior to the scheduled offering of a pre-license education course. The approval shall be valid for one (1) year. The completed form shall be accompanied by:
    - (a) A completed detailed Course Outline broken into four (4) hour increments to include, if applicable, teaching methods, learning objectives for the course, auxiliary aids, quizzes or examinations, and materials for each course.
    - (b) The course description and objectives;
    - (c) A description of the course practicum;
    - (d) When the final examination shall be conducted;
    - (e) The textbooks being used and how material will be taught in conjunction with completion of the projects and the final exam;
    - (f) A copy of the final examination question bank and answer key;
    - (g) A copy of all written material that the instructor will use in the classroom, including a copy of the curriculum that follows the mandated guidelines, if applicable;
    - (h) A completed Instructor Affiliation Form, KREC Form 104, for each instructor who will teach a course; and
    - (i) The nonrefundable initial review fee of seventy-five (75) dollars.
  - (2) To renew approval for a sales associate pre-license course, an approved education provider shall submit:

- (a) A separate completed Pre-license Course Application and Renewal Form, KREC Form 102, for each course, at least ninety (90) days prior to the current expiration of the pre-license education course;
  - (b) The nonrefundable renewal review fee of twenty-five (25) dollars; and
  - (c) A detailed abstract of changes made to the course, course materials, and other required attachments since the initial application or most recent course renewal.
- (3) An education provider shall notify the commission in writing within ten (10) days of a substantive change in the information submitted on the initial or renewal application for a sales associate pre-license course or in any attachment thereto.
  - (4) Every five (5) years an approved education provider shall submit a complete Pre-license Course Application and Renewal Form, KREC Form 102, for each course approval is sought, at least ninety (90) days prior to the scheduled offering of a pre-license education course.
  - (5) Nothing in this section shall prevent the commission from requesting the current version of a course from an approved education provider during the five (5) year review period.

**Section 6. Continuing and Post-license Education Course Approval.**

- (1) To obtain approval for a continuing education or post-license education course, an approved education provider shall submit a completed Continuing and Post-license Education Course Application and Renewal Form, KREC Form 103. The approval shall be valid for one (1) year.
- (2) At least sixty (60) days prior to the scheduling of a continuing or post-license education course, an approved education provider wishing to offer a continuing or post-license education course shall submit:
  - (a) A Continuing and Post-license Education Course Application and Renewal Form, KREC Form 103, and either:
    - 1. The nonrefundable initial review fee of twenty-five (25) dollars for classroom courses or seventy-five (75) dollars for distance education courses; or
    - 2. The nonrefundable renewal review fee of fifteen (15) dollars; and
  - (b) A completed detailed Course Outline broken into fifty (50) minute increments, to include, if applicable, learning objectives for the course, teaching methods, auxiliary aids, quizzes or examinations, materials, and the policies of the provider;
  - (c) The textbooks or course materials being used;
  - (d) A copy of the final examination question bank and answer key, if the course is a distance education course; and
  - (e) A completed Instructor Affiliation Form, KREC Form 104, for each instructor who will teach a course.
- (3) A provider shall:
  - (a) Award each attendee listed on the roster who completes the course a course completion certificate that contains:
    - 1. The licensee's name;
    - 2. The licensee's license number;
    - 3. The course completed, including the type of education, course title, and course number;
    - 4. The date of completion; and
    - 5. Signature of the school administrator or course provider representative.
  - (b) Submit to the commission, within ten (10) days of the student completing an approved continuing or post-license education course, unless the course is completed after December 21 of the calendar year in which case

the deadline shall be on or before 11:59 p.m. December 31:

- 1. An attendance roster through the provider's online portal; and
  - 2. A Course Evaluation, KREC Form 106, completed by each attendee listed on the roster; and
- (c) Include a notice or warning that if the continuing education course is taken after December 21 of the calendar year, the licensee's license may be cancelled if the course is not timely completed; and
  - (d) Subject only to space limitations, make the course available to all licensees, unless the course is offered by a broker-affiliated training program.
- (4) A course provider may be disciplined by the commission if a course provider fails to submit all attendance and evaluation forms completed and returned by students to the course provider.
  - (5) A course that has been previously approved within the same education cycle may be conducted by another provider if:
    - (a) The same instructor teaches the course;
    - (b) The same number and type of credits are awarded for the course;
    - (c) The content of the course is the same; and
    - (d) The hosting provider submits a completed Provider Host Form, KREC Form 105, to the commission thirty (30) days prior to conducting the course.
  - (6) To renew approval for a continuing or post-license education course, an approved education provider shall submit:
    - (a) A completed Continuing and Post-license Education Course Application and Renewal Form, KREC Form 103, for each course approval is sought, at least sixty (60) days prior to the current expiration of the continuing or post-license education course, and
    - (b) A detailed abstract of changes made to the course, course materials, and other required attachments since the initial application or most recent course renewal.
  - (7) An education provider shall notify the commission in writing within ten (10) days of a substantive change in the information submitted on the initial or renewal application for a continuing or post-license education course or in any attachment thereto.
  - (8) Every five (5) years an approved education provider shall submit a complete Continuing and Post-license Education Course Application and Renewal Form, KREC Form 103, for each course approval is sought, at least ninety (90) days prior to the scheduled offering of a continuing or post-license education course.
  - (9) Nothing in this section shall prevent the commission from requesting the current version of a course from an approved education provider during the five (5) year review period.

**Section 7. Pre-license Course Approval for Broker Curriculum.**

- (1) To obtain approval for a broker management or broker curriculum course, an approved education provider shall submit a Pre-license Course Application and Renewal Form, KREC Form 102, for each course approval is sought. The approval shall be valid for one (1) year.
- (2) To satisfy the education prerequisites contained in KRS 324.046(1)(a), an applicant for a broker's license shall complete a broker management skills course. The broker management skills course shall:
  - (a) Satisfy three (3) academic credit hours of the applicant's twelve (12) academic credit hours of real estate courses required to become a broker;
  - (b) 1. Instruction on all topics, except Kentucky specific law and regulation, shall be from a text approved by the commission.

2. To have a text approved by the commission, an education provider shall submit to the commission the proposed text and a written explanation of how the text covers the course content on each of the required topics.
  - (c) Be a three (3) academic hour comprehensive review of all the skills necessary to run a brokerage office in accordance with the applicable Kentucky licensing laws and administrative regulations relating to real estate and the standards of practice for a broker pertaining to adequate supervision of all affiliated licensees, including:
    1. Leadership and management skills;
    2. Communications and decision-making;
    3. Analyzing the business environment;
    4. Analyzing the market;
    5. Developing a business plan, including structuring the organization, business systems, and finances;
    6. Business policies and procedures;
    7. Marketing and advertising;
    8. The practical and legal realities of staffing;
    9. Recruiting, selecting, and hiring the staff;
    10. Professional development;
    11. Critiquing operations; and
    12. Managing risk.
  - (d)
    1. Include a scenario-based practicum or project that shall require each student to develop a sample business plan, a sample financial plan and an office policy and procedure manual. The practicum shall:
      2. Be completed by the individual student, without peer assistance, before sitting for the final examination;
      3. Require application of topics covered in the broker pre-licensing curriculum;
      4. Be graded on a pass-fail scale; and
      5. Be allotted up to one hour of course credit for completion and review of this requirement.
  - (e)
    1. Require each student to take a comprehensive, closed-book examination consisting of at least seventy-five (75) multiple choice questions;
    2. The examination shall be submitted to the commission for approval prior to use in the course;
    3. The passing score for the examination shall be a minimum score of seventy-five (75) percent;
    4. The broker pre-licensing provider shall not allow a student to take the final examination more than three (3) times, unless the student retakes the broker management skills course;
    5. A student may retake the final examination no earlier than the fourth day following the date of a failure;
    6. After the second failure, broker pre-licensing provider shall provide the student with documentation of the area or areas of deficiency and the opportunity for additional training on the student's area or areas of deficiency consistent with the provider's student enrollment agreement.
  - (f) The education provider shall report a course completion certificate to the commission through the provider's online services portal within ten (10) days of issuing the certificate to the student.
- (3) To be approved as a pre-licensing course for broker curriculum, a course shall cover one of the following topics:
    - (a) Federal Housing and Lending Law;
    - (b) Kentucky Real Estate Law and Regulation;
    - (c) Real Estate Finance;
    - (d) Real Estate Marketing;
    - (e) Property Management;
    - (f) Real Estate Investment;
    - (g) Real Estate Appraisal;
    - (h) Home Inspection;
    - (i) Real Estate Auction;
    - (j) Construction and Blueprints;
    - (k) Land Use Planning and Zoning;
    - (l) Commercial Real Estate;
    - (m) Real Estate Development; and
    - (n) Urban Planning.
  - (4) In addition to being specific to the course topics listed in subsection (3) of this section, each pre-licensing course for broker curriculum shall include:
    - (a) A comprehensive review specific to the course topic of all the relevant laws necessary to run a brokerage office in accordance with the applicable Kentucky licensing laws, administrative regulations, and federal laws, if applicable, relating to real estate and the standards of practice for a broker;
    - (b) An extensive review of case studies; and
    - (c) Instruction on personnel management and leadership models.
  - (5) In addition to being specific to the course topics listed in subsection (3) of this section, each pre-licensing course for broker curriculum shall be in either three (3) academic credit hour or six (6) academic credit hour intervals and shall not be accredited for continuing education credit.
  - (6) Within ten (10) days of completion of an approved broker curriculum course, the provider shall submit to the commission:
    - (a) An attendance roster; and
    - (b) A Course Evaluation Form, KREC Form 106, completed by each attendee listed on the roster.
  - (7) If a licensee takes a broker pre-license course with the same course number more than once, the licensee shall only receive credit for one (1) course completion.
  - (8) To renew approval for a broker management or broker curriculum course, an approved education provider shall submit:
    - (a) A completed Pre-license Course Application and Renewal Form, KREC Form 102, for each course approval is sought, at least ninety (90) days prior to the current expiration of the broker management or broker curriculum course; and
    - (b) A detailed abstract of changes made to the course, course materials, and other required attachments since the initial application or most recent course renewal.
  - (9) An education provider shall notify the commission in writing within ten (10) days of a substantive change in the information submitted on the initial or renewal application for a broker management or broker curriculum course or in any attachment thereto.
  - (10) Every five (5) years an approved education provider shall submit a complete Prelicense Course Application and Renewal Form, KREC Form 102, for each course for which approval is sought, at least ninety (90) days prior to the scheduled offering of a the broker management or broker curriculum course.
  - (11) Nothing in this section shall prevent the commission from requesting the current version of a course from an approved education provider during the five (5) year review period.
- Section 8. Broker Electives.**
- (1) To obtain approval for a broker elective course, an approved education provider shall submit a Continuing Education and Post-License Education Course Application and Renewal Form, KREC Form 103, for each course for which approval

is sought, consistent with Section 6 of this administrative regulation. The approval shall be valid for one (1) year.

- (2) The content of a broker elective course shall be:
- (a) An NAR designation course; or
  - (b) A course tailored to the supervisory functions of managing and operating a real estate brokerage company beyond the scope of what is covered in a sales associate pre-licensing course.

**Section 9. Distance Education Standards for Approval.**

- (1) Continuing education, post-license education, and pre-license courses conducted for academic credit in an accredited college or university via interactive television shall include:
- (a) Two (2) way audio and video connections between the instructor and the student; and
  - (b) College or university personnel stationed at each remote site to handle technology problems that may arise and to monitor attendance of students.
  - (c) The program shall be one that has been properly approved by the college accrediting body as fulfilling the requirements for academic credit.
- (2) A course initially approved for classroom instruction shall not be offered for distance education unless additional approval consistent with this section is obtained from the commission.
- (3) (a) Consistent with this administrative regulation, an approved provider shall submit:
1. a. A completed Pre-license Course Application and Renewal Form, KREC Form 102 or
  - b. A completed Continuing Education and Post-licensing Education Course Application and Renewal Form, KREC Form 103.
- (b) In addition to the attachments required by the appropriate course application form, the course application shall include:
1. A complete copy of the program on the medium that is to be used or a link to the internet site where the course is located;
  2. A copy of the final examination question bank and key for each course; and
  3. The appropriate non-refundable course review fee.
- (4) The course shall:
- (a) Be divided into learning units, modules, or chapters to provide mastery of the material. Each unit shall contain learning objectives that are sufficient to ensure that the course will likely be mastered by the student upon completion of the material;
  - (b) Require quizzes at the end of each learning unit, module, or chapter to assess the student's performance before proceeding to the next learning unit, module, or chapter;
  - (c) Require a final examination consistent with subsection (6) of this section;
  - (d) Provide a method for tracking the length of time a student spends on the course; and
  - (e) Prohibit a student from bypassing the course materials to advance directly to the end-of-module quizzes or exercises that are included to assess the student's performance.
- (5) (a) Each course shall have the approved instructor available to answer questions from students.
- (b) The provider shall have reasonable oversight to monitor a student's work and electronic access in order to ensure that the student completing the work and receiving credit is the one who is enrolled in the course.
- (6) For all distance education courses, the student shall pass a final exam covering the content of the course and real estate laws and administrative regulations that apply to those

content areas with a score of at least seventy-five (75) percent.

- (a) If the course is a continuing education or post-license education course, the final exam shall:
1. Be included as the last module of the course; and
  2. Have a minimum of five (5) questions for each approved hour of education.
- (b) If the course is a pre-license education course, the final exam shall:
1. Contain a minimum of fifty (50) items for a three (3) academic credit hour course or contain a minimum of 100 items for a six (6) academic credit hour course;
    - a. Each course shall have an item bank from which the final examination questions shall be pulled.
    - b. The bank shall contain multiple choice items and have forty (40) percent more questions than required on the final examination, so that retake exams will contain unique new questions.
  2. Be monitored by the approved instructor for the course or another individual designated by the instructor who is not a relative or a business associate of the student;
  3. If another individual is designated to monitor the exam, the monitor shall be:
    - a. A certified librarian;
    - b. A public school administrator;
    - c. A College professor;
    - d. Other real estate instructor associated with the school offering the course; or
    - e. A monitor from a qualified online test monitoring service;
  4. The monitor shall:
    - a. Sign a statement certifying that he or she is not affiliated with the student in any way;
    - b. Verify that the person taking the examination is the person registered for the course;
    - c. Observe the student taking the exam;
    - d. Assure that the student does not use aids of any kind;
    - e. Assure that a calculator is nonprogrammable;
    - f. Assure that limitations on the final examination are not exceeded;
    - g. Certify to the provider in a notarized statement that all requirements for the final examination have been met; and
    - h. Assure that any student's mobile device, cell phone, or camera is shut down and put away, while at the test site.
- (7) Prior to awarding a student credit for a distance education course, the education provider shall require each student to complete an affidavit that includes the date of completion and the student's signature, which may be provided electronically. The affidavit shall certify that the student has personally completed all components of the course and the final exam with no academic assistance.
- (8) Credit shall be denied and disciplinary action taken if it is determined that a student received academic assistance on the final exam.
- (9) To obtain credit for a distance education course, a student shall complete the course within the time frame allotted by the school for pre-license courses or within the education cycle for continuing and post-license education, unless the student is completing the course to comply with an order of the commission.

- (10) (a) The completion date for all courses shall be the latest of the dates upon which the student completes the final examination with a passing score of at least seventy-five (75) percent and submits the student affidavit.
- (b) The student shall submit the course evaluation and student affidavit to the provider from whom the course was taken.
- (11) (a) The provider shall ensure that approved instructors are available to assist students who have questions regarding:
  - 1. The technology used in the delivery;
  - 2. The course content; or
  - 3. The completion requirements.
- (b) A student shall not be required to call more than one (1) person to obtain answers to questions about the course.
- (12) The provider shall include a detailed explanation of how the course measures, documents, and records the student completion of the material, and any activities or exercises required to achieve mastery of the material.
- (13) (a) The provider shall obtain an evaluation from each student.
- (b) An evaluation may be submitted to the provider electronically and a copy of each form shall be returned along with the attendance roster and other documents required by the commission for continuing education courses.

**Section 10. Course Instructor Qualifications and Approval.**

- (1) A person not approved pursuant to this administrative regulation shall not teach an education course for credit.
- (2) To be approved, an instructor shall have:
  - (a) Qualifying education or experience:
    - 1. A bachelor's or post-graduate degree from a college or university duly accredited by a nationally recognized rating or accrediting organization, in a field directly related to the nature of the course, such as real estate, business, law, or finance;
    - 2. An associate degree in real estate from a college or university duly accredited by a nationally recognized rating or accrediting organization;
    - 3. Completed five (5) consecutive years of full-time experience in the real estate related subject area that he or she is teaching; or
    - 4. A combination of teaching, education, and full-time experience in real estate totaling five (5) years; and
  - (b) Sufficient and thorough knowledge of the subject area of the course he or she is teaching, familiarity of the provisions of Kentucky real estate licensing law and administrative regulations, and the importance of those provisions on the subject area of the course; and
  - (c) 1. Effective on January 1, 2021, have completed a mandatory educator training course within the twelve (12) months preceding the approval or renewal as an instructor from the commission, unless one of the following exemptions apply:
    - a. The instructor is a national level or unique speaker and training poses an impractical burden;
    - b. The instructor has taken a similar course in another jurisdiction within the preceding twelve (12) months;
    - c. The instructor teaches two (2) or fewer courses each year; or
    - d. The instructor has earned a Distinguished Real Estate Instructor designation or a comparable advanced designation.
- 2. The mandatory educator training course shall include a minimum of three (3) fifty (50) minute blocks of instruction consisting of:
  - a. Classroom management principles and Generally Accepted Practices of Education;
  - b. Fundamentals of instruction in adult education; and
  - c. A review of any pertinent changes to Kentucky or federal real estate brokerage laws and administrative regulations and current real estate brokerage principles.
- (3) To apply for approval, an instructor shall submit:
  - (a) An Instructor Application and Renewal Form, KREC Form 100;
  - (b) A copy of the instructor's current resume;
  - (c) Any information necessary to explain an answer on the application;
  - (d) A license certification from each jurisdiction where the instructor holds a professional license; and
  - (e) A certification of completion for the instructor course.
- (4) Instructor approval shall last for one (1) year.
- (5) To renew, an instructor shall submit the Instructor Application and Renewal Form, a certification of completion for the instructor course, and note any changes from the materials submitted in subsection (3) of this section.
- (6) The commission shall maintain a roster of approved instructors who are eligible to be added to an approved course upon submission of a completed Instructor Affiliation Form, KREC Form 104.
- (7) Approval of an instructor may be withdrawn, probated, or suspended by the commission for:
  - (a) A violation of a provision of KRS Chapter 324 or the administrative regulations promulgated thereunder;
  - (b) Falsification of material submitted to the commission;
  - (c) Failure to provide to the commission requested material;
  - (d) While acting as an instructor, engaging in brokerage activity with an enrolled student while present in an educational facility;
  - (e) Soliciting an investment from a student;
  - (f) Attempting to recruit a student to a real estate company while acting as an instructor;
  - (g) Receipt of a complaint or poor evaluation related to the conduct of the instructor;
  - (h) Improper or unprofessional conduct or communication during course instruction, including comments that are clearly derogatory, not germane to the course's subject matter, or are intended to offend a particular student or group of students;
  - (i) Permitting a student to receive credit for a course if the licensee arrives more than ten (10) minutes after the scheduled start of the course or any break during the course; or
  - (j) Failure to abide by the Generally Accepted Principles of Education or other documented deficiencies in classroom management.

**Section 11. Evaluation of Instructors.**

- (1) The commission shall review each Course Evaluation Form, KREC Form 106, submitted.
- (2) Within the commission's determination, the commission may monitor an instructor's course.
- (3) The commission monitor shall submit a recommendation to the commission regarding whether the instructor shall be allowed to continue to teach courses.
- (4) Based on the recommendation of the commission monitor, and the comments from the monitored class, the commission shall:

- (a) Take no further action; or
  - (b) Take disciplinary action.
- (5) If the commission issues a probationary order, the commission shall establish the length and terms of the probationary period as well as the date of any class to be monitored.
  - (6) At the conclusion of the probationary period, the commission shall determine if the instructor's approval shall continue.
  - (7) If the commission determines that instructor approval shall be suspended, the instructor shall not be allowed to teach any commission-approved education courses unless approval is reinstated.
  - (8) The commission shall notify the instructor and the school of its decision in writing.
  - (9) (a) Any instructor who has been suspended from teaching education courses may apply for reinstatement by submitting:
    - 1. An application for approval to the commission; and
    - 2. An explanation detailing how the applicant cured the deficiency which resulted in suspension; and
  - (b) After submission of the documents in paragraph (a) of this subsection and consideration by the commission, the commission shall approve or deny the instructor's request for reinstatement.

**Section 12. Monitoring and Withdrawal of Provider Approval.**

- (1) An approved education provider shall ensure that all instructors shall abide by the Generally Accepted Principles of Education as adopted by the Real Estate Educators Association.
- (2) An approved education provider shall permit inspection and monitoring by the commission, or its designee, to evaluate the administration or operation of any approved real estate school or approved provider education course and to evaluate the performance of instructors.
- (3) An approved education provider shall not:
  - (a) Advertise, or permit an advertisement to be made, in conjunction with the business of a principal broker or a real estate brokerage company;
  - (b) Discuss, induce, or promote affiliation with a principal broker or a real estate brokerage company;
  - (c) Submit an application or renewal that contains false, inaccurate, or misleading information;
  - (d) Violate the provisions of this administrative regulation as it relates to the establishment or conduct of the provider, any instructor, or any course material; or
  - (e) Directly or indirectly attempt, or allow an official, employee, or a person on their behalf, to reconstruct the real estate licensing examination or portion of the examination.
- (4) If an approved education provider's approval may be subject to withdrawal for the reasons set forth in this section, the commission shall:
  - (a) Give written notice to the school of the intent to withdraw approval and the reasons therefor; and
  - (b) Give the school an opportunity to address the notice, in writing, within thirty (30) days of the date of the notice of intent to withdraw approval.

**Section 13. Records Retention.**

- (1) An approved education provider shall maintain accurate records on each student enrolled in a course for three (3) years.
- (2) A record shall include each student's record of courses completed or attempted, academic hours awarded, final grades, and test scores, if applicable.
- (3) A certificate of completion shall be:
  - (a) Included in the records of each student; and

- (b) Delivered to each student upon completion of a course.

**Section 14. Instructors to Receive Credit for Teaching.**

- (1) A licensee who teaches an approved continuing education course shall receive credit on an hour-for-hour basis, not to exceed three (3) hours per calendar year.
- (2) To obtain continuing education credit, the instructor's name shall be added to the education attendance roster for the course.
- (3) The instructor shall not receive credit more than once in a calendar year for teaching a specific course.

**Section 15. Effective Date.**

The first provider application, course approval application, and instructor application for each provider, course, or instructor received after the effective date of this administrative regulation shall be considered an initial application for purposes of the application and renewal processes prescribed in this administrative regulation.

**Section 16. Incorporation by Reference.**

- (1) The following material is incorporated by reference:
  - (a) "Instructor Application and Renewal Form", KREC Form 100, 07/19;
  - (b) "Education Provider Application and Renewal Form", KREC Form 101, 07/19;
  - (c) "Pre-license Course Application and Renewal Form", KREC Form 102, 07/19;
  - (d) "Continuing and Post-license Education Course Application and Renewal Form", KREC Form 103, 07/19;
  - (e) "Instructor Affiliation Form", KREC Form 104, 07/19;
  - (f) "Provider Host Form", KREC Form 105, 07/19; ;
  - (g) "Course Evaluation Form", KREC Form 106, 07/19; and
  - (h) "Generally Accepted Principles of Education", KREC Form 107, 07/19.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available from the commission's Web site: [www.krec.ky.gov](http://www.krec.ky.gov).

**201 KAR 11:190 Consumer and administrative complaints; discipline; administrative hearings**

**Section 1. Filing a Complaint.**

- (1) A complaint shall:
  - (a) Be filed on the Sworn Statement of Complaint, KREC Form 300;
  - (b) Allege a prima facie case of specific violation of KRS 324.160 by a licensee or a case of unlicensed brokerage against an unlicensed individual;
  - (c) State the basis of the complaint fully, including the name of the principal broker, if known;
  - (d) Be notarized by a notary public; and
  - (e) Include a copy of all the following documents relevant to the complaint or a written explanation of why the documents are unavailable:
    - 1. Listing contract;
    - 2. Purchase contract;
    - 3. Seller's Disclosure of Property Condition form, incorporated by reference in 201 KAR 11:121;
    - 4. Agency Consent Agreement and the Guide to Agency Relationships forms, incorporated by reference in 201 KAR 11:121;
    - 5. Settlement statement; and
    - 6. Any other documentation to support a claim or alleged violation.
- (2) The complaint shall be filed no more than one (1) year from:
  - (a) Actual knowledge of the cause of action; or

- (b) The time circumstances would reasonably have put the complainant on notice of the cause of action.

**Section 2. Complaint Review, Answers, and Replies.**

- (1) Upon receipt of a complaint, commission staff shall review the complaint to determine whether the complaint states a prima facie violation of KRS Chapter 324.
- (2) If a supplement to the complaint is required because the original complaint was deficient, the supplement shall be filed on Sworn Supplement to Complaint, KREC Form 302 and notarized.
- (3) (a) If the commission staff determine the complaint alleges a prima facie case of a specific violation of KRS 324.160, the complaint shall be served for an answer on the licensee as established in KRS 324.151(2).  
(b) A responding licensee shall file a Sworn Answer to Complaint, KREC Form 301 in accordance with KRS 324.151(3).
- (4) The answer shall:
  - (a) State an answer to the complaint;
  - (b) Be notarized by a notary public; and
  - (c) Include a copy of the following documents or a written explanation of why the documents are unavailable:
    - 1. Listing contract;
    - 2. Purchase contract;
    - 3. Seller's Disclosure of Property Condition form, incorporated by reference in 201 KAR 11:121;
    - 4. Agency Consent Agreement and the Guide to Agency Relationships forms, incorporated by reference in 201 KAR 11:121;
    - 5. Settlement statement; and
    - 6. Any other documentation to rebut a claim or alleged violation.
- (5) (a) The complainant may file one (1) reply to the respondent's Sworn Answer to Complaint within ten (10) days of receiving the respondent's Sworn Answer to Complaint;
- (b) The respondent may file one (1) reply to complainant's reply within ten (10) days of receiving the complainant's reply; and
- (c) All replies shall be notarized and include any documents necessary to support or rebut an allegation or a violation.
- (6) (a) For purposes of calculating filing deadlines prescribed by this administrative regulation, the commission shall follow the Kentucky Rules of Civil Procedure.  
(b) A request for an extension of any filing deadline prescribed by this administrative regulation shall be made directly to the office of general counsel and shall be granted or denied. If the request is denied, the requester shall have the opportunity to appeal the decision to the commission at its next scheduled meeting.
- (7) The commission shall not entertain motions with regard to pending complaints.

**Section 3. Complaint Screening Committee.**

- (1) (a) The commission chair may create at least one (1) complaint screening committee.  
(b) Each complaint screening committee shall consist of no more than three (3) commissioners.
- (2) The complaint screening committee shall:
  - (a) Review complaints, supplements, answers, and replies consistent with the Complaint Review Process Chart;
  - (b) Order investigation or further investigation;
  - (c) Review investigative reports;
  - (d) Determine whether the commission's Research, Education, and Recovery fund shall be at issue; and

- (e) Make recommendations as to the disposition of the pending complaint to the full commission.
- (3) The committee may be assisted by the commission staff and counsel.
- (4) (a) Prior to the complaint screening committee's review of an investigative report, the commission's investigator shall notify the respondent that he or she may request a copy of the commission's investigation report to review and address factual matters contained in the investigation report.  
(b) In the investigator's determination, the report and exhibits shall be redacted to protect personal and sensitive information relating to witnesses.  
(c) If the respondent believes a factual discrepancy exists in the investigation report, he or she shall notify the investigator in writing within five (5) days of receiving the report for review and provide the investigator with supporting documentation to rebut the factual discrepancy, if available.  
(d) The investigator shall make any changes necessary based on his or her review of the respondent's notification.
- (5) The committee shall report its findings and recommendations for disposition of complaints to the full commission in the form of a motion, and the commission shall:
  - (a) Dismiss the complaint without an administrative hearing if the facts or evidence do not indicate a prima facie case for a violation of KRS Chapter 324; or
  - (b) Find a violation of a provision of KRS Chapter 324 or 201 KAR Chapter 11 and issue notice of proposed action against the licensee consistent with KRS Chapter 13B.
- (6) The commission, through the complaint screening committee, may engage in informal settlement negotiations, consistent with Section 5 of this administrative regulation.
- (7) A commissioner shall recuse himself or herself from any matter relating to an administrative hearing or final order that resolves a case if he or she:
  - (a) Performed or directed some or all of the investigation;
  - (b) Has a personal or business relationship with either the complainant or any respondent;
  - (c) Is the complainant, a respondent, or a witness;
  - (d) Believes that his or her impartiality may fairly be called into question; or
  - (e) Is advised to recuse by the office of general counsel or the executive director of the Kentucky Real Estate Authority.
- (8) The commission shall notify the complainant and respondent in writing of its decision regarding the disposition of a complaint.

**Section 4. Withdrawal of a Complaint.**

A complainant may withdraw a complaint if:

- (1) (a) An answer has not been filed; and  
(b) The withdrawal is made within twenty (20) days of the date the complaint was received by the respondent; or
- (2) (a) There is good cause for the withdrawal; and  
(b) The commission approves the withdrawal.
- (3) Nothing in this section shall prevent the commission from filing its own complaint against a licensee.

**Section 5. Settlement by Informal Proceedings.**

- (1) At any time following the filing of a complaint and answer, the commission, through its legal counsel, may enter into informal settlement proceedings with a licensee for the purpose of expeditiously resolving any disciplinary matter.
- (2) (a) The commission shall approve or reject all settlement proposals.

- (b) Any matter to which a licensee and the commission's legal counsel have stipulated that is rejected by the commission shall not thereafter bind the parties or the commission.
- (3) The commission may employ mediation as a method of resolving the matter informally.
- (4) All proposed agreed orders shall be signed by the licensee and shall advise the licensee that by entering into an agreed order, the licensee expressly acknowledges that the licensee is fully and completely informed of the due process rights afforded to the licensee and that the licensee knowingly, willingly, and voluntarily agrees to waive those rights and enter into an agreed order.

**Section 6. Standards for Filing a Sworn Statement.**

Any licensee found to have misrepresented facts in any sworn statement shall be subject to disciplinary proceedings by the commission and the commission may seek a criminal indictment for perjury.

**Section 7. Emergency Orders and Hearings.**

- (1) Consistent with KRS 324.150(1)(b) and KRS 13B.125, the commission may issue an emergency order prior to conducting a hearing if an alleged escrow account violation warrants emergency action.
- (2) An escrow account violation shall warrant emergency action if:
  - (a) A licensee is alleged to have committed two (2) or more escrow account violations;
  - (b) A licensee is alleged to have committed one (1) escrow account violation in excess of \$500; or
  - (c) A substantiated threat to the public's health, safety, or welfare exists.
- (3) An emergency order authorized pursuant to this section shall be signed by the executive director, the chair of the commission, and one (1) member of the complaint screening committee. The order shall be served upon the licensee who is the subject of the emergency order pursuant to KRS 13B.125.
- (4) An emergency order issued pursuant to this section may be served on the appropriate financial institution to order an escrow account be frozen until further orders of the commission or a court of competent jurisdiction.
- (5) A licensee who is the subject of an emergency order issued pursuant to this section may request an emergency hearing in accordance with KRS 13B.125.

**Section 8. Recovery Fund Proceedings.**

- (1) If the Commission determines that the recovery fund shall be at issue in an administrative hearing, the complainant shall become a party.
- (2) The Commission shall not represent the complainant in the administrative hearing.
- (3) The complainant shall carry the burden of proof on the issue of damages.

**Section 9. Incorporation by Reference.**

- (1) The following material is incorporated by reference:
  - (a) "Sworn Statement of Complaint", KREC Form 300, 7/19;
  - (b) "Sworn Answer to Complaint", KREC Form 301, 7/19;
  - (c) "Sworn Supplement to Complaint", KREC Form 302, 7/19; and
  - (d) "Complaint Review Process Chart", 6/19.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 656 Chamberlin Ave., Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

**201 KAR 11:210 Licensing, education, and testing requirements**

**Section 1. Initial Sales Associate License.**

- (1) Prior to applying for an initial sales associate license, a prospective applicant shall complete six (6) academic credit hours, or its equivalent, of prelicensing education with either:
  - (a) An approved pre-license education provider; or
  - (b) An accredited institution as defined by KRS 324.010(8).
- (2) An applicant for initial sales associate licensure shall submit:
  - (a) A national criminal history check in accordance with KRS 324.045(5) and this administrative regulation;
  - (b) A completed application submitted on Score Report/License Application obtained from the commission's testing provider after passing the required examination, which shall contain a recent photo of the applicant;
  - (c) Proof of high school graduation, or its equivalent;
  - (d) Proof of completion of six (6) academic credit hours, or its equivalent in qualifying prelicense education;
  - (e) Proof of Errors and Omissions insurance coverage compliant with KRS 324.395 and 201 KAR 11:220, if the license will be immediately active;
  - (f) The nonrefundable sixty (60) dollar original license fee and sixty (60) dollar recovery fund fee required by KRS 324.287(2) and (8); and
  - (g) A completed and signed Consent to Jurisdiction and Service of Process, KREC Form 205, if the applicant resides outside of the Commonwealth of Kentucky.
- (3) An applicant may submit a paper or electronic application.
- (4) Within ten (10) days of being issued a license number and Occupations and Professions Identification Number, OP ID, the licensee shall:
  - (a) Create an Online Services Portal account;
  - (b) Verify the licensee's current residential address and telephone number; and
  - (c) Provide one (1) valid electronic mail address.

**Section 2. Broker's License.**

- (1) Prior to applying for a broker's license, a prospective applicant shall:
  - (a) Complete not less than twenty-one (21) academic credit hours, consistent with KRS 324.046(1)(a), of education to acquire a broker's license, including a minimum of:
    - 1. Nine (9) academic credit hours of real estate courses, which shall not include an applicant's sales associate prelicense education;
    - 2. Three (3) academic credit hours of Broker Management; and
    - 3. Nine (9) academic credit hours of broker elective courses, approved by the commission.
  - (b) A licensee shall not get duplicate course credit toward a broker's license;®
  - (c) A licensee shall get course credit toward his or her broker's license by completing National Association of Realtors®, NAR designation courses. Credit for the designation course shall be awarded consistent with accreditation at the time the course is completed.
  - (d) An applicant for a broker's license may submit a request for an education review by submitting a completed Broker Education Review Form, KREC Form 207.
- (2) An applicant for a broker's license shall submit:
  - (a) Proof of the requisite sales associate experience as provided in KRS 324.046(1)(b) or its equivalent as provided in KRS 324.046(3) or (4);
  - (b) A completed application submitted on Score Report/License Application obtained from the



- commission's testing provider after passing the required examination;
  - (c) Proof of completion of the broker curriculum education real estate courses required by KRS 324.046(1)(a), KRS 324.046(3), and 201 KAR 11:170, Section 7;
  - (d) Proof of Errors and Omissions insurance coverage compliant with KRS 324.395 and 201 KAR 11:220, if the license will be immediately active, or proof of extended reporting period coverage as required by KRS 324.395 if the license will be placed into inactive status;
  - (e) An original copy of the applicant's national criminal history check obtained consistent with KRS 324.045(5) and this administrative regulation;
  - (f) A completed and signed Consent to Jurisdiction and Service of Process, KREC Form 205, if the applicant resides outside of the Commonwealth of Kentucky; and
  - (g) The nonrefundable sixty (60) dollar original license fee required by KRS 324.287(2).
- (3) An applicant may submit a paper or electronic application.
- (4) The provisions of the section shall not be implemented until April 1, 2020.

### **Section 3. Reciprocal Licensing.**

- (1) An individual actively licensed as a real estate professional outside of Kentucky may apply for an equivalent Kentucky license.
- (2) To obtain a sales associate license by reciprocal licensing, an individual shall:
  - (a) File with the commission a national criminal history check in accordance with KRS 324.045(5) and this administrative regulation;
  - (b) File with the commission a certification of licensure issued within the preceding ninety (90) days by the regulatory authority of the state for which the individual seeks reciprocity;
  - (c) Submit proof of completion of six (6) academic credit hours or their equivalent in real estate courses from an accredited institution or approved real estate school pursuant to KRS 324.046 and KRS 324.141(1)(a)3.;
  - (d) Pass the Kentucky law portion of the licensing examination for a sales associate's license;
  - (e) Submit a completed and signed Consent to Jurisdiction and Service of Process, KREC Form 205, if the applicant resides outside of Kentucky; and
  - (f) The nonrefundable sixty (60) dollar original license fee and sixty (60) dollar recovery fund fee required by KRS 324.287(2) and (8).
- (3) To obtain a broker license by reciprocal licensing an individual shall:
  - (a) File with the commission a national criminal history check in accordance with KRS 324.045(5) and this administrative regulation;
  - (b) File with the commission a certification of licensure issued within the preceding ninety (90) days by the regulatory authority of the state for which the individual seeks reciprocity;
  - (c) Submit proof of completion of twenty one (21) academic credit hours or their equivalent in real estate courses from an accredited institution or approved real estate school pursuant to KRS 324.046 and KRS 324.141(1)(a)3.;
  - (d) Pass the Kentucky law portion of the licensing examination for a broker's license;
  - (e) Submit a completed and signed Consent to Jurisdiction and Service of Process, KREC Form 205, if the applicant resides outside of Kentucky; and

- (f) The nonrefundable sixty (60) dollar original license fee and sixty (60) dollar recovery fund fee required by KRS 324.287(2) and (8).
- (4) For purposes of subsections (2)(c) and (3)(c) of this Section, "or their equivalent" shall mean any education requirements approved by the commission pursuant to a reciprocity agreement entered into between the jurisdiction from which the applicant is seeking reciprocity and the commission.
- (5) An applicant may submit a paper or electronic application.
- (6) Within ten (10) days of being issued a license number and OP ID, the licensee shall:
  - (a) Create an Online Services Portal account;
  - (b) Verify the licensee's current residential address and telephone number; and
  - (c) 1. Provide one (1) electronic mail address;
  - 2. The licensee may provide additional, unique electronic mail addresses.

### **Section 4. Real Estate Examination.**

- (1) A successful passing score on required portions of the real estate examination mandated by KRS 324.045(2) shall be valid for sixty (60) days.
- (2) An applicant who fails to pass any required portion of the examination mandated by KRS 324.045(2) three (3) times shall wait at least thirty (30) calendar days from the date of the applicant's third failed examination prior to retaking the examination, or the score shall be void.

### **Section 5. Foreign Language Diplomas or Transcripts.**

- (1) If an applicant submits documentation of qualifying education in a language other than English, the diploma or transcript shall:
  - (a) Be accurately translated by a foreign language document translation service; and
  - (b) Include a certification stating that the translation is true, accurate, and complete.
- (2) The applicant shall provide a letter to the commission indicating that the curriculum of the proffered education is equivalent to a high school diploma or GED. The comparison shall be made by an education credential service provider with membership in the National Association of Credential Evaluation Services.
- (3) If the applicant is unable to comply with the requirements of this section, the applicant shall submit proof of the receipt of a GED granted by an agency or institution within the United States.

### **Section 6. National Criminal History Check.**

- (1) Prior to taking a licensure examination, an applicant shall request a copy of the applicant's national criminal history check, which shall only be valid for ninety (90) days from the date of the record report.
- (2)
  - (a) The applicant may request a copy of his or her national criminal history check from the Federal Bureau of Investigation pursuant to the provisions of 28 C.F.R. 16.30 to 16.33 or through the Kentucky State Police for submission to the Federal Bureau of Investigation consistent with KRS 324.045(5).
  - (b) An applicant may submit the Criminal History Affidavit, KREC Form 209, with his or her application for licensure if:
    - 1. The applicant is unable to obtain his or her national criminal history check from the Federal Bureau of Investigation because the applicant's fingerprints are rejected;
    - 2. The applicant submits proof that he or she was fingerprinted at a recognized state or local law enforcement agency;
    - 3. The applicant submits a Kentucky Administrative Office of the Courts (AOC) Fast Check Criminal

Records Report, or a similar informal background report from the jurisdiction where the applicant resides; and

4. The applicant submits proof of an alternate request for a Federal Bureau of Investigation records check by name or social security number.
- (c) An issued license shall be subject to discipline if, while an applicant, the licensee:
  1. Having submitted a Criminal History Affidavit, KREC Form 209, with his or her application for licensure, fails to submit the national criminal history check within ten (10) days of receiving the report; or
  2. Failed to report any new criminal charges or convictions that occurred after the national criminal history check report date.
- (3) (a) The commission shall investigate a national criminal history check which reveals a felony conviction within the previous ten (10) years, or a misdemeanor conviction within the previous five (5) years, and may investigate any charges or convictions revealed by the national criminal history check or any other evidence of dishonesty, untruthfulness, or bad reputation of the applicant.
- (b) In the determination of the chair of the commission, the commission may delegate the investigative process to the Applicant Review Committee, a subcommittee of the commission, to be comprised of no more than two (2) commissioners;
- (c) The Applicant Review Committee shall operate consistent with KRS Chapter 335B.
- (4) Following the completion of the investigation, the commission shall review the investigation report and shall:
  - (a) Order the applicant to appear before the commission for a hearing before the real estate commission or the real estate commission's authorized representative to determine whether the applicant meets the standards of KRS 324.045; or
  - (b) Allow the applicant to proceed with his or her licensure application without a hearing.
- (5) If an authorized representative conducts the hearing, the authorized representative shall recommend to the real estate commission whether the applicant meets the standards of KRS 324.045. The real estate commission may accept the recommendation, reject the recommendation and enter a separate order, or remand to the representative for further proceedings in accordance with KRS Chapter 13B.
- (6) Following the hearing, if all other licensing pre-requisites are satisfied, the real estate commission shall either approve or deny the application and notify the applicant of its decision along with a written explanation of the reasons for its decision.
- (7) If the real estate commission denies the application, the real estate commission shall indicate in its order, if and when, the applicant will be eligible to submit a subsequent licensure application.
- (8) If an applicant, or a licensee without an active license, has engaged in any unlicensed brokerage activity within this Commonwealth, that person shall, prior to the issuance or reactivation of any license by the commission, submit proof that he or she has returned all fees earned or received as a result of the unlicensed brokerage activity, consistent with KRS 324.990(2).

#### **Section 7. Release by Principal Broker.**

- (1) Upon notification from the principal broker or the affiliate licensee that an affiliate licensee has been released pursuant to KRS 324.310(1), the commission shall notify the affiliate

licensee at his or her last electronic mail address or addresses on file at the commission that, within thirty (30) days of the date of the release notification, the licensee shall:

- (a) Reaffiliate with another broker by submitting a completed Acceptance and Release Form, KREC Form 200, or by using the licensee's online services portal; or
- (b) Request that his or her license be placed into inactive status by using the licensee's online services portal or by submitting a completed License Status and Personal Information Update Form, KREC Form 201;
- (c) If the affiliate holds a broker license and was formerly a principal broker, he or she shall:
  1. Affiliate with another principal broker;
  2. Open a new office as principal broker; or
  3. Place his or her license into inactive status.
- (2) Failure to comply with the notification issued by the commission shall result in the cancellation of the licensee's license.
- (3) A licensee with a cancelled license shall not engage in real estate brokerage activity during the period of cancellation.

#### **Section 8. License Renewal.**

- (1) (a) Licenses shall be renewed on or before March 31 through the licensee's Online Services Portal account.
- (b) A licensee who is unable to renew his or her license using his or her Online Services Portal may utilize the License Renewal Form, KREC Form 208.
- (2) A cancelled license shall not be renewed until the license is reactivated and in good standing.
- (3) (a) A license shall be cancelled if not renewed.
- (b) A licensee with a cancelled license shall not engage in real estate brokerage pursuant to KRS 324.160(2).
- (4) A licensee shall file or verify with the commission at renewal a telephone number, residential address, and an electronic mail address or addresses.

#### **Section 9. Licensing Records.**

- (1) (a) A licensee shall notify the commission by submitting a completed License Status and Personal Information Update Form, KREC Form 201, or through the online services portal, of a change in the following information:
  1. The licensee's legal name;
  2. The licensee's nickname;
  3. Any alternate or assumed name being used by the licensee;
  4. The licensee's residential address;
  5. The licensee's electronic mail address or addresses; or
  6. The licensee's preferred direct or personal phone number.
- (b) If the licensee is changing his or her legal name, he or she shall provide legal documentation supporting the changed name.
- (c) Processing of the changes contemplated in paragraph (a) of this subsection shall require payment of a nonrefundable ten (10) dollar change request fee required by KRS 324.287.
- (d) The licensee shall submit a completed and signed Consent to Jurisdiction and Service of Process, KREC Form 205, if the licensee is moving to a residence outside the Commonwealth of Kentucky.
- (2) (a) A licensee shall notify the commission by completing, signing, and filing with the commission the Certification of Insurance Coverage, KREC Form 203, or through the online services portal, of any change in private professional liability insurance coverage or extended reporting period coverage as required by KRS 324.395.

- (b) This notice shall be accompanied by a nonrefundable ten (10) dollar change request fee required by KRS 324.287(8).
- (3) (a) A principal broker shall notify the commission of any change of his or her primary company location, firm name, alternate or assumed name, doing business as, branch office name, branch office address, designated manager or managers, escrow account or accounts, or email address or addresses by completing, signing, and filing with the commission the Company Information Update Form, KREC Form 202, or through the online services portal.
- (b) This notice shall be accompanied by a nonrefundable ten (10) dollar change request fee required by KRS 324.287.
- (4) (a) A principal broker shall notify the commission of a change in principal broker at an existing real estate brokerage company by submitting a completed Company Change of Principal Broker Form, KREC Form 204, or through the online services portal.
- (b) This notice shall be accompanied by the fee required by KRS 324.287.
- (5) (a) An affiliated licensee shall submit a completed Acceptance and Release Form, KREC Form 200, to change his or her affiliation to another principal broker.
- (b) This form shall be accompanied by the fee required by KRS 324.287.
- (6) A licensee requesting a license history certification shall complete and submit the License Status and Personal Information Update Form, KREC Form 201, accompanied by a nonrefundable ten (10) dollar fee for each certification requested.
- (7) A licensee shall be subject to discipline consistent with the commission's authority in KRS 324.160(1) for a violation of KRS 324.160(4)(t) if the licensee fails to submit notification to the commission of any changes required by this section within ten (10) days of the change.

**Section 10. Inactive Status.**

- (1) An active licensee who wishes to place his or her license into inactive status shall submit Form 201, License Status and Personal Information Update Form, or through the online services portal.
- (2) All licensees placing a license into inactive status shall:
  - (a) Obtain extended reporting period (ERP) coverage insurance for a period of one (1) year as established by KRS 324.395(1); and
  - (b) Submit a completed Certificate of Insurance Coverage, KREC Form 203, with proof of the required coverage.
- (3) The coverage obtained pursuant to subsection (2) of this section shall be consistent with the minimum requirements prescribed by 201 KAR 11:220.
- (4) To reactivate a license from inactive status, a licensee shall complete and submit Form 201, License Status and Personal Information Update Form, or through the online services portal, and comply with KRS 324.310 and complete the following education:
  - (a) If the licensee has not taken the Core course in four (4) years, the licensee shall complete Core; and
  - (b) If the licensee has been inactive during more than one (1) education cycle, the licensee shall complete core plus six hours of continuing education elective to be selected from a list of courses to be compiled by the commission. This paragraph shall not take effect until January 1, 2021.
- (5) If the licensee is exempt from continuing education requirements pursuant to KRS 324.046(5), the licensee shall

not be required to complete any continuing education to reactivate a license from inactive status.

**Section 11. Mandatory Continuing Education.**

- (1) An active licensee, licensed by the commission on or after June 19, 1976, shall comply with the requirements of KRS 324.085(1) by attending and successfully completing six (6) hours of continuing education courses sponsored or approved by the commission each year. Three (3) of the hours of continuing education shall be in law, and three (3) of the hours of continuing education may be electives.
  - (a) An active licensee shall complete the continuing education requirements consistent with KRS 324.085(1) no later than December 31 of the first year in the renewal cycle. An active licensee shall receive continuing education credit for any approved course completed on or before December 31, if the education provider has reported the licensee's course completion to the commission before 11:59 p.m. on December 31 consistent with 201 KAR 11:170, Section 6(3).
  - (b) An active licensee who fails to complete his or her continuing education requirement shall have his or her license cancelled and be ineligible to renew if the licensee has not completed the continuing education required by KRS 324.085(1) and this administrative regulation.
- (2) An active licensee's annual mandatory continuing education requirement shall not be satisfied by the completion of a pre-license course.
- (3) A candidate shall not submit completion of the same continuing education course more than once for licensure credit in the same calendar year.
- (4) A licensee shall not receive credit for more than nine (9) hours of continuing education in a calendar day.
- (5) A licensee shall not receive credit for a course if the licensee arrives more than ten (10) minutes after the scheduled start of the course or after the conclusion of any break during the course.
- (6) An active licensee shall attend a commission-approved core course once every four (4) years, with the first four (4) year cycle beginning from the year of initial licensure. The core course shall:
  - (a) Satisfy the licensee's mandatory continuing education requirement for the year in which the course is taken; and
  - (b) Be a six (6) hour comprehensive review of the requirements of:
    - 1. KRS Chapter 324;
    - 2. 201 KAR Chapter 11;
    - 3. Common and federal law relating to real estate; and
    - 4. The standards of practice for a real estate licensee.
- (7) An active licensee who fails to complete Core in a year in which the licensee is required to complete Core, even if the licensee completed other continuing education, shall be subject to the delinquency procedures set forth in Section 13 of this administrative regulation.

**Section 12. Exemptions from the Continuing Education Requirement.**

- (1) A person licensed prior to June 19, 1976 shall not be required to complete continuing education.
- (2) A reciprocal licensing broker, who has been licensed for less than three (3) months when education is due, shall not be required to attend a continuing education course during the first education cycle in which he or she is licensed in Kentucky.
- (3) A reciprocal licensing sales associate shall not be required to complete continuing education during the first two (2) full

education cycles of licensure in Kentucky. A reciprocal licensing sales associate shall complete the education required by KRS 324.085(2).

- (4) A licensee shall not be required to comply with KRS 324.085(1) during the first two (2) full education cycles from the date of issuance of a sales associate license.
- (5) A licensee whose license is inactive shall not be required to attend continuing education courses while the license remains inactive, except as provided in this administrative regulation.

**Section 13. Continuing Education Compliance and Delinquency.**

- (1) The commission shall, for good cause shown, extend the time requirements established by KRS 324.085(1) and this administrative regulation. Good cause may include a true hardship, extensive medical issues for the licensee or the licensee's immediate relative, active military duty or service, or other good cause that clearly warrants relief.
- (2)
  - (a) The request for extension and any supporting documentation shall be received in writing on or before the last day of the month or year in which the education requirement is due, unless the hardship prevents compliance with subsection (1) of this section.
  - (b) A license shall not be cancelled while a hardship request is pending.
  - (c) The commission shall review the hardship request and notify the licensee in writing of the commission's decision.
- (3)
  - (a) If a licensee fails to comply with the mandatory education requirements of this administrative regulation, the executive director or the executive director's representative shall issue a delinquency notice to the licensee.
  - (b) If the licensee fulfilled the education requirement in the year it was required, proof shall be forwarded to the commission upon request, and the license shall be reactivated.
- (4)
  - (a) If the licensee fails to request an extension and fails to forward proof of completion prior to the deadline, the license shall be cancelled automatically.
  - (b) A license cancelled for nonfulfillment of the continuing education requirements may be reactivated if the licensee enters into a written delinquency plan, pays a \$1,000 administrative fine, and either:
    - 1. Places the license into inactive status; or
    - 2. Agrees in the delinquency plan to complete the delinquent continuing education requirements for the previous calendar year on or before April 30.
- (5) A licensee who places his or her license into inactive status under the provisions of this section shall not reactivate the license until he or she has:
  - (a) Completed all delinquent mandatory continuing education requirements; and
  - (b) Satisfied the requirements of KRS 324.310.
- (6) A licensee who fails to place his or her license into inactive status or file the delinquency plan immediately following the year in which continuing education requirements were not fulfilled, shall automatically have the license cancelled and shall not be eligible to renew without completing the delinquent education.
- (7) If a licensee fails to complete the requirements of the delinquency plan within twenty (20) days of the agreed completion date, the commission shall issue a notice of violation to the licensee.
- (8) Failure to respond to the notice of violation shall result in a default order of suspension for a period of six (6) months.
- (9) If the commission suspends the license as a result of a default order or after hearing, if one is requested, the licensee shall

not be allowed to activate the license unless, within ninety (90) days following expiration of the suspension, the licensee:

- (a) Completes all delinquent mandatory continuing education requirements;
  - (b) Submits the required documents to reinstate the license; and
  - (c) Pays all necessary reactivation, renewal, and transfer fees.
- (10) If the licensee does not reinstate the license within ninety (90) days following the completion of the suspension period, the license shall be cancelled and the licensee shall be obligated to meet the requirements for initial licensure, including retaking the examination.
  - (11) A license cancelled under this section shall not be reactivated until the licensee has completed all of his or her mandatory education requirements, complied with all commission orders, and submitted all other applicable licensing requirements.
  - (12) Failure of the executive director or his or her representative to issue a deficiency notice to the licensee shall not relieve the licensee of his or her mandatory education requirements or the penalties associated with the deficiency. (13) A license cancelled for continuing education deficiency shall be subject to the provisions of KRS 324.160(2).

**Section 14. Post-License Education Compliance and Delinquency.**

- (1) The time requirements established by KRS 324.085(2) and this administrative regulation shall be extended by the commission for good cause shown, such as a true hardship, extensive medical issues for the licensee or the licensee's immediate relative, active military duty or service, or other good cause that clearly warrants relief.
- (2) The license of a licensee who fails to complete his or her post-licensing education on or before the licensee's deadline shall be automatically cancelled the following day.
- (3) A license of a licensee cancelled for post-license education deficiency may not be reactivated until all delinquent post-licensing education is complete.
- (4) A license cancelled for post-license education deficiency shall be subject to the provisions of KRS 324.160(2).

**Section 15. Death or Incapacity of a Principal Broker.**

- (1) Pursuant to KRS 324.425, an affiliated licensee may complete and close the existing business of a deceased or incapacitated broker for a temporary period, not to exceed six (6) months.
- (2) Any affiliate requesting principal broker status pursuant to KRS 324.425 shall submit a completed Notification of Death or Incapacity of a Licensee, KREC Form 206.

**Section 16. Incorporation by Reference.**

- (1) The following material is incorporated by reference:
  - (a) "Acceptance and Release Form", KREC Form 200, 7/2019;
  - (b) "License Status and Personal Information Update Form", KREC Form 201, 11/2019;
  - (c) "Company Information Update Form", KREC Form 202, 11/2019;
  - (d) "Certification of Insurance Coverage", KREC Form 203, 11/2019;
  - (e) "Company Change of Principal Broker Form", KREC Form 204, 7/2019;
  - (f) "Consent to Jurisdiction and Service of Process", KREC Form 205, 7/2019;
  - (g) "Notification of Death or Incapacity of a Licensee", KREC Form 206, 11/2019;
  - (h) "Broker Education Review Form", KREC Form 207, 7/2019;

- (i) "License Renewal Form", KREC Form 208, 11/2019; and
  - (j) "Criminal History Affidavit", KREC Form 209, 7/2019.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available from the commission's Web site: [www.krec.ky.gov](http://www.krec.ky.gov).

**201 KAR 11:220 Errors and omissions insurance requirements**

**Section 1. Minimum Coverage Requirements.**

A licensee shall carry continuous errors and omissions coverage that, at a minimum includes:

- (1) A limit of liability not less than \$100,000 for any one (1) claim, excluding the cost of investigation and defense; and
- (2) An annual aggregate limit of liability of not less than \$1,000,000, excluding the cost of investigation and defense.

**Section 2. Firm Coverage.**

A principal broker who purchases errors and omissions "firm coverage" insurance shall have at least the following aggregate amounts:

- (1) One (1) to forty (40) licensees shall carry a \$1,000,000 annual aggregate; or
- (2) Forty-one (41) or more licensees shall carry a \$2,000,000 annual aggregate.

**Section 3. Deductibles.**

All errors and omissions coverage or professional liability insurance policies shall have maximum deductibles, which may be separate deductibles, which shall not exceed:

- (1) \$2,500 for judgment or settlement; and
- (2) \$1,000 for the cost of investigation and defense.

**Section 4. Exclusions permitted.**

Coverage may exclude claims brought against the insured, regardless of whether the professional service involves an activity for which a license is required by the Commonwealth of Kentucky, consistent with common custom in the market.

**Section 5. Licensee certification of compliance.**

A licensee who chooses to obtain an insurance policy other than the group insurance policy obtained by the commission pursuant to KRS 324.395(3) shall file with the commission a Certification of Insurance Coverage, KREC Form 203, as incorporated by reference in 201 KAR 11:210, annually upon issuance of the initial private insurance policy or its renewal.

**Other Helpful Statutes & Regulations**

**371.010 Statute of frauds; Contracts to be written**

-- No action shall be brought to charge any person:....

- (6) Upon any contract for the sale of real estate, or any lease thereof for longer than one year;
- (8) Upon any promise, agreement, or contract for any commission or compensation for the sale or lease of any real estate or for assisting another in the sale or lease of any real estate.

**383.580 Security deposits**

- (1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenant's security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U.S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.
- (2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defects. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.
- (3) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.
- (4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.
- (5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in District Court. Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of subsection (3) of this section, or except as otherwise provided, and if the tenant shall fail to sign the listing or specifically dissent in accordance with subsection (3) of this section, the tenant shall not be entitled to recover any damages under this section.
- (6) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after thirty (30) days, remove the deposit from the account and apply any such excess to the debt owing.
- (7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

**207.250 Disclosure of HIV information in real estate transaction prohibited**

- (1) The fact that an occupant of real property is infected or has been infected with human immunodeficiency virus or diagnosed with acquired human immunodeficiency syndrome is not a material fact that shall be disclosed in a real estate transaction.

- (2) No cause of action shall arise against an owner of real estate or his agent, or any agent of a transferee of real property for failure to disclose to the transferee that an occupant of that property was infected with human immunodeficiency virus or diagnosed with acquired human immunodeficiency syndrome.

**367.46951 Definitions for zero call list**

- (1) "Telephone solicitation" means:
  - (a) A live or recorded communication sent by a telephone or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:
    - 1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;
    - 2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;
    - 3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or
    - 4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or
  - (b) A live or recorded communication sent by a telephone, facsimile machine, mobile telephone, or telephone paging device in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:
    - 1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;
    - 2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or
    - 3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;
- (1) "Telephone solicitation" does not mean the following:
  - (a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;
  - (b) A telephone call made to the debtor or a party to the contract in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;
  - (c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items

previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

- (d) A telephone call made by the following:
  - 1. A merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of Kentucky;
  - 2. A telephone call made by one (1) merchant to another;.....

**367.46955 Prohibited telephone solicitation acts and practices**

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct . . .

- (15) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the national Do Not Call registry maintained by the United States federal Trade Commission;

**40 KAR 2:075 Commonwealth of Kentucky zero call list**

. . . Section 2. Publication

- (1) Quarterly publication schedule. The Zero Call List shall be published according to the following schedule:
  - (a) The first quarter shall be effective January 15-April 14, and it shall be published on December 15;
  - (b) The second quarter shall be effective April 15-July 14, and it shall be published on March 15;
  - (c) The third quarter shall be effective July 15-October 14, and it shall be published on June 15; and
  - (d) The fourth quarter shall be effective October 15-January 14, and it shall be published on September 15.
- (2) The Zero Call List shall be:
  - (a) Available in accordance with Section 4 of this administrative regulation;
  - (b) Published on the Internet at website address [www.kycall0.com](http://www.kycall0.com); and
  - (c) Available in electronic and hard copy. A request for an electronic or hard copy of the Zero Call List shall require a minimum of five (5) business days notice to the division.

**376.075 Engineers', architects', landscape architects', real estate brokers' and land surveyors' liens – When lien not required of real estate broker – Filing statement of amount claimed**

- (1) Any professional engineer, licensed architect, licensed landscape architect, real estate broker, or professional land surveyor who performs professional services or services as defined in KRS 322.010(4) for professional engineers, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects, KRS 324.010(1) for real estate brokers, and KRS 322.010(10) for professional land surveyors shall have a lien on the building, structure, land, or project relative to which the services were performed, to secure the amount of the charges for services with interests as provided in KRS 360.040 and costs.
- (2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.
- (3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section.
- (4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the

amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

- (5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lien holder complies with all filing requirements under this section, and does so within the time fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.
- (6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of a professional engineer, architect, landscape architect, real estate broker, or professional land surveyor on a public improvement shall be governed by KRS 376.210.
- (7) No real estate broker shall acquire a lien under this section relative to newly constructed residential real estate unless the purchaser has agreed in writing to directly compensate such broker for performing brokerage services related to the transaction.
- (8) No real estate broker shall acquire a lien under this section unless:
  - (a) The owner or the owner's authorized agent:
    1. Lists the subject property with the broker under the terms of a written agreement to sell, lease, or otherwise convey any interest in the subject property; or
    2. Agrees in a written agreement to pay the broker a fee for his or her services as a buyer's representative; and
  - (b) The broker or the broker's affiliated sales associate provides licensed services that result, during the term of a written agreement described in paragraph (a) of this subsection, in the procuring of a person or entity ready, willing, and able to purchase, lease, or otherwise accept a conveyance of the property or any interest in the property:
    1. Upon terms contained in a written agreement described in paragraph (a) of this subsection; or
    2. Upon terms that are otherwise acceptable to the owner or the owner's authorized agent as evidenced by a written agreement to convey any interest in the property signed by the owner or owner's authorized agent.

**381.9201 Applicability of KRS 381.9201, 381.9205, and 381.9207 -- Modification or waiver by agreement -- Certificate not required in certain cases.**

- (1) This section and KRS 381.9205 and 381.9207 apply to all units subject to KRS 381.9101 to 381.9207, except as provided in subsection (2) of this section or as modified or waived by agreement of purchasers of units in a condominium in which all units are restricted to nonresidential use.
- (2) The certificate referred to in KRS 381.9203 shall not be required in the case of:
  - (a) A gratuitous disposition of a unit;
  - (b) A disposition pursuant to court order;
  - (c) A disposition by a government or governmental agency;

- (d) A disposition by foreclosure or deed in lieu of foreclosure;
- (e) A disposition to a person in the business of selling real estate who intends to offer those units to purchasers, and where the purchaser has modified or waived the requirements of KRS 381.9203 by agreement; or
- (f) A disposition that may be canceled at any time and for any reason by the purchaser without penalty.

**381.9203 Documentation to be furnished by seller of unit -- Certificate.**

- (1) Except as provided in KRS 381.9201(2), a seller of a unit shall furnish to a purchaser, upon request and before execution of any contract for sale of a unit, or otherwise before conveyance, a copy of the declaration, other than the plats and plans, and a copy of the bylaws, the rules or regulations of the association, and a certificate, current to the date of issuance and signed and dated by the association's manager or authorized agent, containing:
  - (a) A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit;
  - (b) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense, emergency assessment, or special assessment currently due and payable from the selling unit owner;
  - (c) A statement of any other fees payable by unit owners;
  - (d) A statement of any capital expenditures anticipated by the association for the current and, if known, next two (2) fiscal years;
  - (e) A statement of the amount of any reserves for capital expenditures, if any, and of any portions of those reserves designated by the association for any specified projects;
  - (f) The most recent regularly prepared balance sheet and income and expense statement, if any, of the association;
  - (g) The current operating budget of the association;
  - (h) The date of the most current financial report prepared for the association pursuant to KRS 381.9197;
  - (i) A statement of any unsatisfied judgments against the association, the status of any pending suits in which the association is a defendant, or any pending suits in which the association is a named party and the amount in dispute or contest is more than ten thousand dollars (\$10,000);
  - (j) A statement describing any insurance coverage maintained by the association or an attachment of a certificate of insurance issued to the association; and
  - (j) If any portion of the condominium is situated upon a leasehold estate, a statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof.
- (2) The association shall, within ten (10) days after a request by a unit owner, furnish a certificate containing the information necessary to enable the unit owner to comply with subsection (1) of this section. A unit owner or unit owner's agent providing a purchaser with the certificate issued pursuant to this subsection shall not be liable to the purchaser for erroneous information provided by the association and included in the certificate.
- (3) A unit owner or unit owner's agent shall not be liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the sales contract is voidable by the purchaser until the certificate has been provided and for five (5) days thereafter or until conveyance, whichever first occurs.
- (4) An association may not deny the validity of any statement in the certificate.



- (5) Failure to provide a certificate does not void a deed to a purchaser.

**KRS 286.8-010 to 286.8-285 (Kentucky's Mortgage Licensing and Regulation Act)**

**286.8-290 Mortgage loan originators – Applicability of and exclusion from requirements of subtitle**

- (1) The following mortgage loan originators shall be subject to subsections (3) and (4) of this section, but shall be exempt from the registration and regulatory requirements of KRS 286.8-255:

...

- (e) Any natural person, including all entities owned in whole or part by that natural person, that make no more than four (4) loans each calendar year: and

...

**286.8-020 Exemptions**

- (1) The following mortgage loan companies and mortgage loan brokers shall be subject to KRS 286.8-046, 286.8-180, 286.8-220(1), and subsections (12), (13), and (14) of this section, but shall be exempt from all other provisions of this subtitle:

...

- (d) Any person other than a natural person, including any affiliate of that person, that makes in the aggregate no more than four (4) mortgage loans within a calendar year with its own funds and secured by residential real property owned by the person making the mortgage loan, provided that the mortgage loan is made without the intent to resell the mortgage loan, and provided that the person does not hold itself out to the public as being primarily in the mortgage loan business.

**369.101 Short title for KRS 369.101 to 369.120.**

KRS 369.101 to 369.120 may be cited as the Uniform Electronic Transactions Act.

...

**369.105 Use of electronic records and electronic signatures -- Variation by agreement.**

- (1) KRS 369.101 to 369.120 does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.
- (2) KRS 369.101 to 369.120 applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.
- (3) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.
- (4) Except as otherwise provided in KRS 369.101 to 369.120, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of KRS 369.101 to 369.120 of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.
- (5) Whether an electronic record or electronic signature has legal consequences is determined by KRS 369.101 to 369.120 and other applicable law.

**369.106 Construction and application of KRS 369.101 to 369.120.**

KRS 369.101 to 369.120 must be construed and applied:

- (1) To facilitate electronic transactions consistent with other applicable law;
- (2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) To effectuate its general purpose to make uniform the law with respect to the subject of KRS 369.101 to 369.120 among states enacting it.

**369.107 Legal recognition of electronic records, electronic signatures, and electronic contracts.**

- (1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (2) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (3) If a law requires a record to be in writing, an electronic record satisfies the law.
- (4) If a law requires a signature, an electronic signature satisfies the law.

...

**Environmental Emergencies**

**224.1-410 Legislative findings regarding methamphetamine contamination -- Definitions -- Decontamination standards -- Procedures for assessment -- Tiered response system -- Certification by owner that property cleaned and standard met -- Certification of decontamination contractors -- Posting methamphetamine contamination notice -- Written notice of property contamination to buyer or lessee -- Integrated state effort -- Federal funding to be pursued.**

...

- (10) Any owner of contaminated property who leases, rents, or sells contaminated property upon which a methamphetamine contamination notice has been posted under subsection (9) of this section shall disclose in writing to any potential lessee, tenant, or buyer that the property is contaminated with methamphetamine and has not been decontaminated pursuant to the requirements set forth in this section. If the property has been decontaminated and released by the cabinet from the need for further action, notice under this subsection shall not be required. The Department for Public Health shall promulgate administrative regulations setting forth the disclosure requirements.

...

**902 KAR 47:200. Public health methamphetamine contamination.**

Section 1. Definitions.

- (1) "Cabinet" means the Kentucky Cabinet for Health and Family Services.
- (2) "Commissioner" means the commissioner of the Kentucky Department for Public Health.
- (3) "Clandestine Drug Lab Preliminary Assessment Tier Selection Criteria Form (TASS), DEP 1016 means the evaluation tool incorporated by reference in 401 KAR 101:030 and used by law enforcement to determine the tiered level of



methamphetamine contamination within the inhabitable property.

- (4) "Decontaminated" means the removal of methamphetamine contamination from an inhabitable property in a manner in accordance with 401 KAR 101:040.
- (5) "Disclosure" means the notification made by the owner of a methamphetamine contaminated property to a potential buyer, lessee, or renter of that property advising them that the property is contaminated.
- (6) "Methamphetamine Disclosure Statement" means the documentation provided by the property owner to the potential buyer, lessee, or renter that conforms to the requirements established in Section 4(2) of this administrative regulation.
- (7) "Notice of Methamphetamine Contamination" means the form DFS 407 used to denote methamphetamine contamination within an inhabitable property.
- (8) "Posted" or "posting" means the physical affixing of the Notice of Methamphetamine Contamination to the entrances of an inhabitable property with one (1) or more rooms with living, sanitary, and sleeping facilities arranged for the use of one (1) family or individual.
- (9) "Released" means the authorization by the cabinet for the removal of the posted Notice of Methamphetamine Contamination and an authorization to the property owner that all disclosure requirements established in this administrative regulation are no longer applicable.

#### Section 2. Posting of Property.

- (1) Upon written notification received from law enforcement that an inhabitable property has been found to contain evidence of methamphetamine contamination and has had posted a Notice of Methamphetamine Contamination on all exterior entrances to the inhabitable property, the local health department shall request from the responding law enforcement agency a copy of the Clandestine Drug Lab Preliminary Assessment Tier Selection Criteria Form (TASS), DEP 1016, incorporated by reference in 401 KAR 101:030.
- (2) Upon receipt of the issuance of a Notice of Methamphetamine Contamination by law enforcement, the local health department shall within ten (10) business days:
  - (a) Notify by certified mail the property owner listed on the deed of the inhabitable property that the property has been posted with a Notice of Methamphetamine Contamination;
  - (b) Notify the cabinet in writing that a Notice of Methamphetamine Contamination has been posted upon the property;
  - (c) Provide the cabinet with a copy of the Clandestine Drug Lab Preliminary Assessment Tier Selection Criteria Form (TASS), DEP 1016;
  - (d) Notify the Kentucky State Police Methamphetamine Coordinator; and
  - (e) Notify the Energy and Environment Cabinet Superfund Branch.
- (3) The Notice of Methamphetamine Contamination shall remain posted at the property entrances until the property owner receives notification from the local health department as established in Section 5(2) of this administrative regulation that the posting may be removed.

#### Section 3. Appeals Process.

- (1) A homeowner listed on the deed of the property who has received a Notice of Methamphetamine Contamination and who believes that the notice has been issued improperly may make a written request of appeal to the Commissioner of Public Health, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, within thirty (30) days of the date the notice was posted on the property.

- (2) Upon receipt of an appeal, the commissioner shall forward the request to the Administrative Hearings Branch, which shall set the date, time, and place for the hearing requested within sixty (60) days of the date postmarked on the appeal envelope.
- (3) The notice of appeal hearing shall conform to KRS 13B.050;
- (4) The appeal hearing shall be conducted by a hearing officer appointed by the commissioner and in accordance with KRS 13B.080, 13B.090, and 13B.110.
- (5) The hearing officer shall make a recommended order in accordance with KRS 13B.110.
- (6) The secretary shall:
  - (a) Issue a final order in accordance with KRS 13B.120 after receipt of the hearing officer's recommended order; and
  - (b) Forward a copy of the final order to the Department of Public Health.
- (7) An official record of the appeal hearing complying with KRS 13B.130 shall be retained by the Cabinet for Health and Family Services' Administrative Hearings Branch.

#### Section 4. Disclosure Requirements.

- (1) A property owner who chooses not to decontaminate a posted property contaminated by the production of methamphetamine shall disclose, in writing, the presence of contamination including the following information to all prospective buyers, tenants, and lessees of the property:
  - (a) The physical address of the property;
  - (b) The location within the posted property that was used in the production of methamphetamine; and
  - (c) A copy of the Notice of Methamphetamine Contamination.
- (2) The property owner shall sign and date the Methamphetamine Disclosure Statement and maintain a copy of the Methamphetamine Disclosure Statement and documents attached thereto for the duration of their ownership.
- (3) If a posted inhabitable property is sold or ownership is otherwise transferred, the new owner shall assume all responsibility for disclosure as established in this section.
- (4) Upon request by the prospective buyer, tenant, or lessee, the property owner shall provide a copy of any documentation related to the methamphetamine contamination provided to the owner by law enforcement, the Energy and Environment Cabinet, the Department for Public Health, or the local health department.
- (5) In cases if the posted inhabitable property is a mobile home, the owner shall assume all responsibilities for disclosure if the property is relocated to a new physical address.
- (6) Failure by the property owner to disclose methamphetamine contamination as outlined in this section shall constitute a Class D Felony as required under KRS 224.99-010.

#### Section 5. Removal of the Posting.

- (1) The local health department shall authorize the removal of the Notice of Methamphetamine Contamination if:
  - (a) The property has been decontaminated and written approval for release by the Energy and Environment Cabinet has been received; or
  - (b) A properly submitted appeal as established in Section 3 of this administrative regulation has resulted in the secretary determining the property was issued a Notice of Methamphetamine Contamination improperly and a copy of such determination has been received by the local health department.
- (2) The local health department shall notify, in writing within ten (10) business days of notification established in subsection (1) of this section the property owner listed on the deed of the property that:

- (a) The Notice of Methamphetamine Contamination has been authorized to be removed from the entrances of the inhabitable property; and
- (b) Disclosure requirements no longer apply.
- (3) The local health department shall notify within ten (10) business days the cabinet, the Division of Waste Management, and the Kentucky State Police Methamphetamine Coordinator that the inhabitable property has been released.
- (4) The local health department shall retain copies of notifications of release from Energy and Environmental Cabinet for at least seven (7) years.

Section 6. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "DFS 407, Notice of Methamphetamine Contamination", July 2009; and
  - (b) "DFS 407, Notice of Methamphetamine Contamination", 2009.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (35 Ky.R. 2843; Am. 36 Ky.R. 328; eff. 8-12-2009.)

**KRS Chapter 324B Department of Professional Licensing – Kentucky Real Estate Authority**

**324B.010 Definitions for chapter.**

As used in this chapter, unless the context requires otherwise:

- (1) "Authority" means the Kentucky Real Estate Authority;
- (2) "Cabinet" means the Public Protection Cabinet;
- (3) "Commissioner" means the commissioner of the Department of Professional Licensing;
- (4) "Department" means the Department of Professional Licensing;
- (5) "Executive director" means the executive director of the Kentucky Real Estate Authority; and
- (6) (a) "Real property board" means:
  - 1. Kentucky Board of Home Inspectors, established under KRS 198B.700 to 198B.738;
  - 2. Kentucky Real Estate Commission, established under KRS Chapter 324;
  - 3. Real Estate Appraisers Board, established under KRS Chapter 324A; or
  - 4. Board of Auctioneers, established under KRS Chapter 330; and
- (b) "Real property boards" means a combination of all the boards listed in paragraph (a) of this subsection.

**324B.020 Department of Professional Licensing within Public Protection Cabinet.**

The Department of Professional Licensing is hereby created within the Public Protection Cabinet. The department shall be managed by a commissioner, who shall be appointed by the Governor.

**324B.030 Department of Professional Licensing -- Services for boards and commissions -- Charges -- Complaints -- Acceptance of personal checks in payment of license renewal fees.**

- (1) The Department of Professional Licensing in the Public Protection Cabinet shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the Kentucky

Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the Kentucky Board of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and any other boards and commissions that are created to license, certify, register, or otherwise regulate any occupational or professional category.

- (2) The department may also provide administrative services to a board or commission that is created to license, certify, register, or otherwise regulate any occupational or professional category if these administrative services are deemed to be preferable or required after the review process conducted under KRS 324B.040.
- (3) To the extent that the department provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The department shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The department may employ persons previously employed by boards or commissions.
- (4) The department may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the department for administrative purposes. The department shall cause these complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The department shall keep a record of all complaints received by it and forwarded to a board or commission.
- (5) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

**324B.040 Independent board or commission to use services of Department of Professional Licensing -- Exemptions -- Report.**

- (1) As used in this section, "independent board or commission" means an executive branch agency created by statute that serves the primary purpose of licensing, certifying, registering, or otherwise regulating any occupational or professional category. "Independent board or commission" does not include:
  - (a) An executive branch board or commission that is a part of another executive branch agency;
  - (b) Any board or commission that is under the authority or jurisdiction of the General Assembly or the judicial branch; or
  - (c) Any board or commission within any branch of state government if that board or commission is expressly designed to:
    - 1. Study, report, or make recommendations regarding a particular issue; or
    - 2. Expire within a time certain.

- (2) Any independent board or commission that is created after July 15, 2010, shall use the administrative services of the Department of Professional Licensing as described under KRS 324B.030 unless that board or commission can reasonably demonstrate to the satisfaction of the department that it will license, certify, register, or otherwise regulate at least one hundred (100) persons. If the board or commission is able to initially demonstrate that it will reach the threshold established in this subsection and then fails to license, certify, register, or otherwise regulate at least one hundred (100) persons at the end of any two (2) consecutive fiscal years, that board or commission shall be subject to the process required in subsection (4) of this section.
- (3) Any independent board or commission that was created before July 15, 2010, shall undergo the process required in subsection (4) of this section if that board or commission licenses, certifies, registers, or otherwise regulates less than one hundred (100) persons at the end of any two (2) consecutive fiscal years ending on or after June 30, 2010.
- (4) (a) If an independent board or commission fails to regulate one hundred (100) or more persons for two (2) consecutive fiscal years as described in subsections (2) and (3) of this section, that board or commission shall submit a report within ninety (90) days after the close of the second of the two (2) fiscal years to the Department of Professional Licensing and to the Interim Joint Committee on Licensing and Occupations of the Legislative Research Commission or to the corresponding standing committees of the General Assembly. The report shall contain, at a minimum:
  1. The number of persons licensed, certified, registered, or otherwise regulated by the board or commission at the close of each of the two (2) fiscal years;
  2. A detailed accounting of the revenues, fees collected, board or commission member reimbursements or per diems, staff salaries, costs, expenses, and other financial activities of the board or commission for each of the two (2) fiscal years; and
  3. The board or commission's plan to:
    - a. Increase the number of persons it licenses, certifies, registers, or otherwise regulates to one hundred (100) or more persons;
    - b. Merge with one (1) or more other boards, commissions, or other governmental entities, which will result in a merged entity that will license, certify, register, or otherwise regulate one hundred (100) or more persons; or
    - c. Allow the Department of Professional Licensing to assume administrative duties for the board or commission as described in KRS 324B.030.
- (b) If, after implementation of its plan under paragraph (a)3.a. or b. of this subsection, an independent board or commission fails to license, certify, register, or otherwise regulate one hundred (100) or more persons for an additional three (3) consecutive fiscal years, for a total of five (5) consecutive fiscal years, that board or commission shall allow the Department of Professional Licensing to assume administrative duties for the board or commission as described in KRS 324B.030 within ninety (90) days after the end of the fifth fiscal year.

**324B.050 Kentucky Real Estate Authority -- Executive director -- Powers.**

- (1) The Kentucky Real Estate Authority is hereby created within the Department of Professional Licensing.
- (2) The authority shall be managed by an executive director, who shall be appointed by the secretary of the Public Protection Cabinet with prior written approval from the Governor. The executive director shall be exempted from the classified service.
- (3) The authority shall have the power and authority to:
  - (a) Provide appropriate personnel staffing and administrative support to the real property boards;
  - (b) Establish and maintain an office, meeting space, office supplies, furniture, storage space, and any other supplies that are necessary to carry out the duties of the authority and the real property boards;
  - (c) Make available for public inspection all decisions, opinions, and interpretations formulated or used by the authority and the real property boards in discharging their functions;
  - (d) Publicize the functions and purposes of the authority and the real property boards;
  - (e) Employ administrative coordinators who shall carry out the administrative functions and day-to-day operations of the real property boards. The maximum number of administrative coordinators shall be one (1) for each real property board. Administrative coordinators shall be exempted from the classified service;
  - (f) Enter into agreements with any state agency, political subdivision of the state, postsecondary education institution, or other person or entity to assist with implementation of the duties and responsibilities of the authority or, upon request, the real property boards; and
  - (g) Charge the real property boards a reasonable amount for the services of the authority and its employees.

**324B.060 Duties of executive director of Kentucky Real Estate Authority.**

The executive director shall:

- (1) Provide government oversight of the real property boards;
- (2) Review and approve or disapprove any administrative regulation proposed by the real property boards prior to the promulgation of the administrative regulation;
- (3) Review and approve or disapprove the budgets and expenditures of the real property boards;
- (4) Pursuant to KRS 13B.120(7), automatically hear and issue a final order regarding any decision of a real property board that would otherwise be subject to appeal. An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order to the Circuit Court of the county where the licensee has his or her principal place of business or where the license applicant resides;
- (5) Make available for public inspection all decisions, opinions, and interpretations formulated or used by the executive director in discharging his or her functions;
- (6) Carry out the policy and program directives of the department;
- (7) Prepare annual reports on the executive director's activities;
- (8) Delegate any power to employees and contractors as needed;
- (9) Have at least ten (10) years of experience in one (1) of the professions under the jurisdiction of a real property board; and
- (10) Perform all other duties assigned by law.

