Kentucky Real Estate
NEWS
A Publication of the Kentucky Real Estate Commission

Continuing Education Deadline is December 31, 2013

Who must comply?

All active licensees licensed after June 19, 1976 are subject to continuing education on a calendar year basis. Those licensees must take six (6) hours, three (3) of which must be in law, from an approved provider. Active licensees must also take the Kentucky Core Course once every four (4) years. If you took the Core Course this year, it fulfills your six (6)-hour continuing education requirement for 2013.

How do I know what I have taken this year or if it is my year to take the Kentucky Core Course?

Licensees can view their individual continuing education history and requirements on the KREC website (krec.ky.gov). Click on the "**Licensee Database**" tab and click "**I Agree**." Type in your first and last name as it appears on your license and click "**Search**." Then click on "**Details**." Next, click on "**CE History**" to display your current year requirements, hours posted, and previous seminars. It also lists the next year that you must take the Kentucky Core Course.

Where can I find a class?

The KREC website has a listing of all the approved continuing education providers, along with their contact information. There is not a schedule of continuing education courses, so licensees must contact the providers directly. The KREC website also has the Core Course providers and a Core Course schedule. All of this information is under the continuing education link on the KREC homepage. ***Reminder: The KREC does not offer courses.***

What if I fail to get my continuing education by December 31st?

A $500 fine will be assessed to those licensees who do not comply with the continuing education requirements. Licensees can place their licenses in escrow on or before December 31, 2013 in order to avoid the fine. This can be done through the **Online Licensing Services** or by completing Form #203. Your principal broker must first release your license (either online or on Form #200). Online payments and payments made by check must be completed or in the KREC office by December 31, 2013.

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Kentucky UNBRIDLED SPIRIT

Issue No. 222, Fall 2013

Kentucky Real Estate Commission

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Comments from the Chair

by: Linda Gibson Cecil, Chair

We are nearing the end of 2013, which is a time when the KREC reports to all licensees and consumers on the major activities and projects that have been focused on by the agency over the past year. The KREC's Annual Report for 2013 will be presented at the December 19, 2013 meeting and can be made available to those who are interested.

One of the major activities that the KREC initiated this past year was the formation of an Education Review Work Group (the Group). The KREC organized a group of educators from throughout the state to review Kentucky's license laws and make recommendations regarding how the KREC should proceed with developing and improving real estate education for all Kentucky licensees. The Group held two successful and productive meetings, and it was able to reach a consensus on educational issues that needed to be addressed.

In addition, a Focus Group meeting was held at the KREC's annual Educators Conference this past October. That group, which consisted of real estate educators from all fields, discussed the current state of Kentucky real estate education and possible reforms to improve the educational needs of all real estate licensees.

The Group recommended the following top priorities: 1.) to increase the annual continuing education requirements for all licensees from six (6) to twelve (12) hours per year, noting that Kentucky is currently tied with only one other state as having the lowest number of required continuing education hours in the United States; 2.) to develop educational requirements for real estate educators; 3.) to develop posting licensing educational requirements for new licensees; and, 4.) to create mandatory training for all brokers and sales associates who serve in supervisory roles.

After reviewing and considering the recommendations of the Education Review Work Group, the Commission voted at its November 21, 2013 meeting to pursue both statutory and regulatory changes in 2014. The Group's recommendations are supported by various groups throughout Kentucky, including the Kentucky Association of Realtors® and the Kentucky Real Estate Educators Association.

The legislative and regulatory process will involve considerable work throughout 2014. The KREC will keep all licensees informed through the KREC Newsletter and its website (krec.ky.gov). The KREC appreciates and welcomes licensees sharing their thoughts with the Commission about the educational reform measures that will be pursued in the coming year.

As always, please continue to let us know how you believe we can improve KREC's level of service to you. Please also feel free to share with us your suggestions regarding ongoing agency activities, especially the proposed education reforms. It is vital that we all work together to continually improve and enrich the real estate profession in the Commonwealth of Kentucky.

From the Director's Desk

By: Michael W. Wooden, Executive Director

Ronald J. Harris, Jr. Appointed as General Counsel

It is my pleasure to announce that on November 20, 2013, the Kentucky Real Estate Commission voted to hire Ronald J. Harris, Jr. (Ronnie) as General Counsel of the Commission. His appointment becomes effective on December 16, 2013.

For several years, the Commission has been contracting for General Counsel legal services with the Attorney General's Office. While the Commission has been very pleased with those services, they were only available on a part-time basis. The Commission is very pleased to have a full-time General Counsel to lead the KREC Legal Department.

Ronnie brings with him very impressive professional experience and skills. Since 2009, he has been the General Counsel of King Southern Bank and he has been Partner/Vice President of King & Co. PSC., a full service regional Certified Public Accounting firm providing audit, consulting and tax services. He has also been an attorney with the law firm, Harris & Associates, PSC., specializing in estate, tax and civil litigation issues.

Ronnie received his Bachelor's degree in Business Administration in 1999 from the University of Louisville. In 2004, he received his law degree from the Louis D. Brandies School of Law. Ronnie is licensed to practice law in Kentucky. In addition, he is a Certified Public Accountant in Kentucky and a Certified Business Valuator through the National Association of Certified Valuators and Analysts.

Ronald J. Harris, Jr.

Ronnie also brings with him over nine years of government experience. He was the Chief of Staff & General Counsel of the Office of the Jefferson County Circuit Court Clerk; Assistant County Attorney with the Jefferson County Attorney's Office; and an auditor with the Commonwealth of Kentucky.

Ronnie resides in Louisville with Megan Thomas. Together, they have six children: Gage (age 11), Ballard (age 11), Cutter (age 10), Saylor (age 9), Trey (age 8), and Yale (age 8).

In his free time, Ronnie enjoys spending time with his family and friends.

Ronnie says, "I am excited to be joining the Kentucky Real Estate Commission and think the General Counsel position will be a great fit for me. It has been a pleasure getting to know the people involved with the Commission, and I look forward to joining the team."

On behalf of everyone at the Commission, welcome aboard Ronnie!

KREC Commissioners

Linda Cecil, Chair

Jim Huff, Vice-Chair

Bob Roberts

Ken Perry

Kimberly Sickles

Kentucky Real Estate Commission Education, Research and Recovery Fund Annual Statement of Income and Expenses Fiscal Year Ending June 30, 2013

Income FY 2012/2013		Office Rental	13,108
Initial Exam Recovery	19,200	Postage/Parcel Delivery	1,419
Reciprocal Recovery	2,490	Postage/Meter & Bulk	12,393
Renewal Recovery	637,020	Cassettes/Books	2,039
Core Course	7,650	In-State Travel	3,883
Interest Income	-1,282	Out-State Travel	44,699
Income Total	**$665,078**	Subpoenas, Court Fees	500
		Subscriptions	3,826
Expenditures FY 2012/2013		Seminar Refreshments	3,282
Personnel	153,992	College Grants	123,464
Legal Services	62,707	On Line Subscriptions	7,864
Investigative Services	99,254	Equipment	4,997
Speaker Fees	14,899	**Expenditure Total**	**$552,326**

What Licensees Need to Know About…

BUYERS' AGENTS ADVERTISING THEIR PARTICIPATION IN A SALE

By: Y. Denise Payne Wade, Staff Attorney

At its July 25, 2013 meeting, the KREC voted to amend 201 KAR 11:105. This resulted from the discovery of confusion over the authority of a buyer's agent, under Section 1 of the regulation, "to advertise or promote his or her participation in the sale after a binding contract is created." The confusion stems from a misinterpretation of the language in that section and from a mistaken belief that permission of the listing agent involved in the sale is required before a buyer's agent may exercise his or her stated authority. The KREC is in the process of amending the regulation to eliminate the confusion. In the meantime, it provides the following guidance to licensees, including its interpretation of the language quoted above.

Advertising or promoting "the participation" of a buyer's agent in a sale, as used in 201 KAR 11:105, Section 1, is not synonymous with advertising or promoting "the sale." As used in the regulation, an agent's "participation" is synonymous with his or her "role" in the sale. Therefore, an advertisement or promotion that is made by a buyer's agent pursuant to 201 KAR 11:105, Section 1, must include the clearly-stated "role" of the agent as a buyer's agent in the sale. In addition, the authority that a buyer's agent has under the regulation may be exercised only

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Tips to Avoid Real Estate Errors and Omissions Claims

The following article was submitted by Rice Insurance Services Company, LLC (RISC)
We put the Experience and Options in E&O providers

While even the most diligent licensee may be the victim of a frivolous claim, diligent business practices help decrease risk. Even if these procedures do not prevent a claim, they may greatly enhance the chance of a successful defense.

1. Resolve problems far before the closing date. Don't wait until the last minute to address problem issues. When people are rushed to resolve matters, they are more likely to make mistakes or overlook items.
2. Don't try to be an expert at everything. Involve key professionals, such as attorneys, home inspectors, termite inspectors, appraisers, lenders, and surveyors when needed. Provide a list of several names or a copy of the yellow page listings but do not recommend a specific individual or firm! Keep a copy of the list you provide.
3. It is generally a good idea to require agency disclosure on every transaction. Be familiar with state law regarding when a written agency disclosure is required, at what stage it must be completed, and who must be provided with signed copies. Typically, agency relationships should be disclosed as soon as possible, but in any event, prior to providing specific assistance to the client. For example, buyers should be advised if the agent showing them the house is the seller's agent.
4. Document conversations, recommendations, and activities in a log. It is also often helpful to document conversations by sending a brief follow up email. Keep organized, detailed records of all real estate transactions. This may be required by state law, will assist you in recalling details, and will be helpful to an attorney if a defense is needed in the future.
5. Brokers should have regular meetings with their firms' licensees and remain informed as to their activities. Establish consistent guidelines and make sure everyone in the firm understands and complies with them.
6. Listing agents should have the seller complete any required property disclosure form. This form should generally not be filled out by the real estate licensee. Additionally, if any issues arise while the property is listed, advise the seller to update the disclosure form accordingly.
7. Recommend that buyers obtain a home warranty and retain written evidence of the recommendation.
8. Recommend that buyers obtain a home inspection. If they decline, have them sign a form confirming this decision.
9. The Kentucky Real Estate Commission has standard contract forms. Standard forms may also be available from associations. It is wise to address items that are outside of standard form language with the client's legal counsel, or else the real estate licensee risks the unauthorized practice of law. If the client chooses not to consult with an attorney, remind them that real estate licensees cannot provide legal advice and retain written evidence of that reminder and recommendation to seek legal counsel.
10. When information is obtained from a third party, it is often a good idea to disclose the source when making representations, because sometimes information from what appears to be a valid source turns out to be inaccurate. For example, if you believe a property is on city sewer based on a prior listing or a statement by the city utility office, disclose the source of your representation.

Prepared by Rice Insurance Services Company, LLC, October 2, 2013. CNA is a service mark and trade name registered with the US Patent and Trademark Office. The program referenced herein is underwritten by Continental Casualty Company, a CNA insurance company. This information is for illustrative purposes only and is not a contract. Nothing herein should be construed as legal advice or advice regarding any applicable standard of care. Rather, this information is intended to provide a general overview of certain products, services, and situations encountered in the course of our business. This information does not amend any E&O policy in any way. Only the policy can provide actual terms, coverages, amounts, conditions, and exclusions. The E&O program described herein is only available in Kentucky. In the event of a claim, the nature and extent of coverage is determined based on the claim's facts, circumstances, and allegations and application of the relevant policy's terms, conditions, and exclusions. © 2013

Annual Educators Conference Held in Louisville

The Kentucky Real Estate Commission was pleased to once again sponsor the Educators Conference, which was held on October 24 - 25, 2013, at the Holiday Inn Hurstbourne in Louisville. This conference is free to all educators, and the Commission has always strongly encouraged educators to attend. We believe that Kentucky has some of the best educators in the nation and this conference allows them to not only listen to some wonderful speakers, but it affords them time to network and share ideas.

The conference began with a welcome and opening remarks from Executive Director Michael Wooden. Presentations and updates were given by KREC staff including; Kristen Reese (Education and Licensing Director), Denise Wade (Staff Attorney) and Shelly Saffran (Director of Administration). Attendees also heard from the current testing vendor's (PSI) Executive Vice President Tadas Dabsys, Bill Curley (Commission investigator) and a special presentation by WDRB's Bill Lamb.

This conference not only benefits the educators in attendance, but it also allows the Commission to receive feedback and comments from the educators. The Commission strives to improve educational opportunities from licensees and this conference brings all of the experts together.

The Commission would like to give special thanks to Education and Licensing Director Kristen Reese for organizing and hosting the conference. Ms. Reese would especially like to recognize her staff; Rachael Carmicle, Michelle Gary, and Karen Morris. She said that without their hard work and assistance, she could not have planned and hosted such a successful conference.

Bill Lamb of WDRB doing a presentation entitled "Money Follows Excellence"

Educators; (left to right) Beverly McCormick, Sandye Hackney, Billy Cahaney, and Donna Miller

Education and Licensing Director Kristen Reese and Education Specialist Rachael Carmicle

Disciplinary Actions

Gregory S. Keeys
Case No. 10-0139 & 11-0008 (Freeport, FL)
Violation: By default, Mr. Keeys violated KRS 324.160(4)(b) and (v) by making substantial misrepresentations and for his gross negligence. He also violated KRS 324.160(4)(t) by violating 201 KAR 121(1)(4) by breaching fiduciary duties owed to his clients; as well as, 201 KAR 11:400, KRS 324.360 and 201 KAR 11:350 by failing to comply with agency and seller's disclosure requirements.
Disposition: Mr. Keeys license was revoked.

John Wheatley
Case No. 12-0056 (Louisville)
Violation: Mr. Wheatley stipulated to a violation of KRS 324.160(4)(t) for failing to comply with the Commission's lawful order entered in its consolidated Case Nos. 08-0202 and 09-0193, resulting from his failure, while on probation, to pay a fine and complete additional continuing education hours.
Disposition: Mr. Wheatley agreed to voluntarily and permanently surrender his license.

Angela M. Jessee
Case No. 12-0062 (Lexington)
Violation: Ms. Jessee stipulated to a violation of KRS 324.160(4)(a) for obtaining a license through an unintentional false representation for unintentionally failing to disclose a misdemeanor conviction on her license application.
Disposition: Ms. Jessee agreed to have her license changed from "canceled" to "voluntarily surrendered" for three (3) years, in lieu of revocation.

Jason P. Schmidt
Case No. 12-0079 (Cincinnati, OH)
Violation: Mr. Schmidt stipulated to a violation of KRS 324.160(4)(t) for violating 201 KAR 11:230, by failing to complete the requirements of his 2011 Continuing Education Delinquency Plan and Agreement.
Disposition: Mr. Schmidt agreed that his license shall be changed from "canceled" to "voluntarily surrendered" for one (1) year, in lieu of suspension.

William J. Knight
Case Nos. 10-0040, 10-0041, and 10-0042 (Nicholasville)
Violation: Mr. Knight stipulated to a violation of KRS 324.160(4)(b), (h) and (u), resulting when Mr. Knight perpetrated a constructive fraud upon the plaintiffs in the above-referenced cases. Mr. Knight entered into three (3) separate land contracts with the complainants and subsequently sold their homes, to three (3) different third parties "without giving notice to the Plaintiffs, obtaining their permission to do so, without initiating a foreclosure proceeding in accordance with the terms of the Land Contract and without providing an accounting of the proceeds of the sale." Mr. Knight stipulated that the consumer complainants in these cases are entitled to the monetary amounts, as awarded by the Fayette Circuit Court, totaling $46,373.95.
Disposition: Mr. Knight agreed to have his license changed immediately to "voluntarily surrendered," in lieu of revocation.

Dorothy R. Inman
Case No. 11-0006 (Louisville)
Violation: Ms. Inman violated KRS 324.160(4)(t) by violating: KRS 324.111(4), by her mistaken reliance on a POA; 201 KAR 11:121(1)(4) for failing to act with reasonable care and diligence; and 201 KAR 11:400(3), resulting from a presumption that an agency disclosure statement that was not retained, as required, was not provided.
Disposition: Ms. Inman was ordered to pay a fine in the amount of $800.00 and ordered to take six (6) hours of continuing education, in addition to her regular requirements for licensure.

David C. Bischof
Case No. 11-0006 (Louisville)
Violation: Mr. Bischof violated KRS 324.160(4)(t) by violating: KRS 324.111(6), by his mistaken reliance on the POA; and 201 KAR 11:121(1)(4) for failing to act with reasonable care and diligence.
Disposition: Mr. Bischof was ordered to pay a fine in the amount of $800.00, because as principal broker, he should have acted more cautiously and diligently in considering the authority granted in the POA.

Norma J. Roberts
Case No. 11-0120 (Pleasureville)
Violation: Ms. Roberts, in settlement of the claims against her, stipulated to an inadvertent violation of KRS 324.160(4)(t), specifically, 201 KAR 11:400, resulting from her failure to provide properly completed agency disclosure statements to her clients in the dual agency transaction.
Disposition: Ms. Roberts agreed to pay a fine in the amount of three hundred fifty dollars ($350.00) and to accept a formal reprimand.

KREC Website: krec.ky.gov

What Licensees Need to Know About…

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after a closing has occurred, because accepted contracts do not always lead to closings, as licensees know.

As licensees also know, it is not uncommon for contracts to have numerous contingencies; such as, financing, whole-house inspections, and termite inspections. Because any one of those contingencies could lead to a breakdown in the contract, and because a buyer could simply get cold feet and decide to walk away from the purchase contract for no reason, the authority that a buyer's agent has under 201 KAR 11:105, Section 1, cannot be exercised before a closing has occurred.

Moreover, when a buyer's agent chooses to exercise his or her authority under Section 1 of the regulation, he or she is not required to obtain the listing agent's permission to do so. Such permission is required only when a licensee is advertising listings of another real estate brokerage company, pursuant to 201 KAR 11: 105, Section 6, which states as follows:

> *A licensee may advertise the listings of another real estate brokerage company if:*
>
> *(1) The licensee has requested and obtained the listing broker's consent to advertise the other company's listing or listings; and*
>
> *(2) The licensee's advertisement of the other company's listings includes the complete name of the other real estate brokerage company.*

Finally, the KREC reminds licensees that, pursuant to 201 KAR 11:105, Section 2, their placement of a sign on any property requires them to have the written consent of the property's current owner authorizing them to do so.

2014 Commission Meeting Schedule

January 24
February 27
March 27
April 17
May 22
July 17
August 21
October 16
November 20
December 18

No meetings are scheduled for June and September

The Kentucky Real Estate Commission will be closed on:

December 24 & 25, 2013
(Christmas)

December 31, 2013 & January 1, 2014
(New Year's Day)

January 20, 2014
(Martin Luther King, Jr.'s Birthday)

Do You Have an Address or E-mail Change?

Updates can be made online at ***krec.ky.gov*** *through the* ***Online Licensing Services*** *link.*

Licensees Honored at Annual Half-Century Awards

The 15th Annual Half-Century Awards and Luncheon was held on October 17, 2013 at the Louisville Marriott East. There were 28 licensees who hit the 50-year milestone this year. Of those licensees, 7 were present to receive their awards. They are pictured to the right.

This is always a favorite event amongst commissioners and staff. This occasion is just a small token of the Commission's appreciation for their commitment and dedication to the real estate industry. Notably, the licensees who were present to receive their awards are still actively licensed.

Those in attendance were treated to the comedic talents of Dr. Carl Hurley. This is Dr. Hurley's second appearance and, once again, he had the audience in stitches. The honorees and guests were also treated to a luncheon.

Again, congratulations to all of the licensees who have reached this prestigious achievement. The Commission appreciates your many years of service and contributions to the real estate industry.

Pictured left to right, front row: Robert Jones, Earl Hisle, Joseph Guy Hagan, Jr., Tildon McCormick, back row: Richard Heimerdinger, Russell Dunn, and Roy Streeter

Licensees honored but not present were: Saul Anhouse, Jo Ann Castle, John Coffman, Charles Euton, Claude Gibson, Joann Givens, Edward Goins, Jr., Elizabeth Haering, Donald Henderson, Ronald Hettinger, Thomas Isbell, Forrest Land, Patsy McCormick, Mitchell Potter, Ray Rector, Darrel Schell, George Sexton, Harry Tudor, John Weikel, and Joseph Woodside, Sr

Commissioners Jim Huff and Bob Roberts, Dr. Carly Hurley and Chair Linda Cecil

Commissioner Kim Sickles, Chair Linda Cecil, Joe Guy Hagan, and Commissioner Bob Roberts

Honorees and guests in attendance

Commissioners Kim Sickles and Ken Perry

Executive Director Michael Wooden's opening remarks