REAL ESTATE LICENSING LAWS IN KENTUCKY

Published by

Kentucky Real Estate Commission
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Louisville, KY 40223
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Website – www.krec.ky.gov

Kentucky
UNBRIDLED SPIRIT

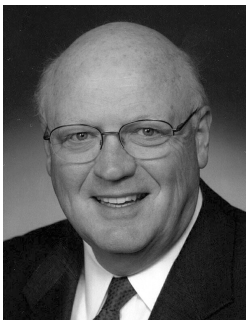
August 2015

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 *(http://www.lrc.ky.gov/).*

Steve Beshear
Governor of the
Commonwealth of Kentucky

Commissioners



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Dear Real Estate Licensees, Students and Consumers

These are the laws under which you must operate as a licensee. It is your responsibility to know these laws and act accordingly. The Commission encourages you to keep this copy of the law as a desk reference. If you have any questions, please contact the Commission Office.

The Commissioners

DO YOU HAVE A QUESTION?

The Kentucky Real Estate Commission is open Monday through Friday from 8:00 a.m. to 4:30 p.m. (EST) with the exception of State Holidays. Many questions can be answered by accessing the Commission's website (www.krec.ky.gov). If you are unable to find answers to your questions on our website, please feel free to contact our office.

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CHANGES TO THE STATUTES & REGULATIONS FROM 2008 - 2016

The official language for the statutes and regulations can be found on the Legislative Research Commission's website at www.lrc.ky.gov. Below is a summary of the 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. Students must also now complete, with a passing score, a project that is applicable to the course content. The implementation date for the new requirements is November 1, 2008. The regulation also changes the pre-license approval period to a two-year cycle and outlines the requirements for submitting materials to the Commission for approval.

201 KAR 11:210 Licensing, education & testing requirements

This regulation now 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 outlined in KRS 324.040(3).

201 KAR 11:230 Continuing education requirements

The regulation was totally reorganized. The penalty for non-compliance is now $500.00 and the previous final delinquency plan opportunity was deleted. The revisions further clarify the course and instructor approval processes.

201 KAR 11:240 Distance education requirements

This is a new regulation that 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 the individual must pass in order to receive credit for the course.

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 the changes to 201 KAR 11:170.

STATUTE EFFECTIVE ON 07/15/2008

KRS 324.235 – KRS 324.238 Commercial Law

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

STATUTES EFFECTIVE ON 06/25/2009

KRS 324.010 Definitions for chapter – application of chapter

This new law (subsection 11) created a new definition of a "designated manager," which is a licensed sales associate or broker who manages a main or branch office.

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

The change to this statute now 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 is a big change in that the Commission will no longer enter into reciprocal agreements with other states for out-of-state licensees who want to obtain a Kentucky license. ***NOTE: Although the heading of this statute still says "Reciprocal," there are no longer any reciprocal agreements.*** The Commission will now utilize license recognition. The out-of-state licensee's foreign license will be recognized and the out-of-state licensee must complete the application forms, pass the state law portion of the real estate exam and fulfill a few other requirements. In most cases, this new process will make it much easier than it had been in the past. A more detailed explanation can be found under the heading "Regulations Effective on 12/4/09," which explains 201 KAR 11:215.

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 now require principal brokers to return licenses to the Commission within five (5) days, when the principal broker has received notification from a licensee that the licensee wants 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). If the principal broker is out of town, the Commission allows an office representative to signature stamp the principal broker's name on the back of the license. If the principal broker cannot find the license, he or she can send a letter to the Commission releasing the licensee with a statement that the license has been lost.

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 regulation was amended and 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. The Commission no longer has reciprocal agreements.

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 can be found on the Commission's website.

STATUTES EFFECTIVE 7/15/10

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

This statute was amended to change the statutory March 31, 2010 renewal date to a date that will be established by the Commission 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 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 will be required to have a managing broker. A sales associate with two (2) years experience in the real estate business, 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 was amended to state that, by promulgation of a regulation, 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 either through the Commission's website or other 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 Commission'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 became effective on July 12, 2012 and addresses license renewal – annual requirements and change request procedures.

REGULATION EFFECTIVE 11/1/13

201 KAR 11:220 – Errors and omissions insurance requirements

This regulation was amended to clarify that cost of investigation and 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 his or her role in the sale after a closing has occurred 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.

HOUSE BILL 149 ADDED POST-LICENSE STATUTES THAT WILL TAKE EFFECT ON 1/1/2016

KRS 324.010 Definitions for chapter – Application of chapter

This statute was amended to add the definition of 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.

POST-LICENSE EMERGENCY REGULATIONS EFFECTIVE 6/29/2015

201 KAR 11:235E Post-license education requirements

This emergency administrative regulation establishes procedures for implementing the requirements for post-license education. It defines the authorized post-license education providers and the course topics that are required. It sets forth the application requirements for education providers seeking approval to offer post-license education courses, sets the criteria for the post-license education course curriculum, criteria for instructor approval, and addresses compliance and delinquency consequences and remedies. It also identifies the required Commission forms for submitting applications and other materials.

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

This emergency administrative regulation sets forth the application requirements for education providers seeking approval to offer real estate courses, sets the criteria for pre-license course curriculum, out-of-state course approval, record maintenance requirements, the requirement to allow inspection and monitoring by the commission, sets grounds for revocation of school approval, and prohibits attempts to copy or reconstruct the real estate licensing examination.

201 KAR 11:175E Instructor approval procedures and guidelines

This emergency administrative regulation sets forth the procedures and guidelines for the approval of an instructor at an approved real estate school. Education providers must have their instructors approved to teach a course. Approval may be obtained by following the procedures and guidelines set forth in this regulation. This regulation is being amended to maintain consistency between the requirements for continuing education and post-licensure education. Forms utilized by the commission have been revised to allow their use for both continuing education and post-licensure education. Some of these revised forms are incorporated by reference within this regulation. Forms have been amended to reflect the new form names and form numbers.

201 KAR 11:240E Distance education requirements

This emergency administrative regulation establishes criteria for approval of courses offered through online and other distance education methods for pre-license, post-license, and continuing education courses, and deletes the requirement that these type courses be certified by ARELLO or the International Distance Education Certification Center (IDECC)]. Further, it sets forth the approval process for education providers seeking approval to offer distance education courses, sets the criteria for the distance education course and instructor approval.

KENTUCKY REVISED STATUTES
CHAPTER 324

324.010 Definitions for chapter—Application of 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 Qualifications for license – Examination – Fee – Criminal record check

(1) Licenses 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

(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.

(Please note, the requirement for post-license education in KRS 324.085 will become effective on January 1, 2016. The regulations will be implemented prior to that date.)

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

(1) All actively licensed agents except those licensees exempt under KRS 324.046(5), shall successfully complete six (6) classroom or online hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law.

(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
   (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 of 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 annually and shall be renewed each year on the date determined by the commission by administration regulation. The commission shall renew a license for each ensuing year, 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 annual 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 renewal year 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 intends 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

(PLEASE NOTE – Although the heading of this statute still says "Reciprocal, " the Real Estate Commission no longer has any reciprocal agreements – please see 201 KAR 11:215 for a more detailed explanation)

(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) Any party aggrieved by the action of the commission in refusing to grant a license or in ordering any disciplinary action 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. Disciplinary action imposed by the commission 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 commission.

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 five (5) persons, at least four (4) 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 four (4) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section.

(2) All appointments shall be for the specified four- (4) 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 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 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 three (3) of any one (1) political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to promulgate administrative regulations; to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter or alternatively to contract with an entity to conduct examinations; to conduct necessary educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; to 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.

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
(6) A member ceases to be a bona fide resident of this Commonwealth.

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.

324.283 Compensation of commission members

Each member of the commission shall receive as compensation fifteen thousand dollars ($15,000) per annum and actual and necessary expenses incurred in the performance of duties pertaining to the office.

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 license fee, not to exceed thirty dollars ($30).
(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).
(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).
(5) Certification of status with the commission, ten dollars ($10).
(6) Request for any change, not to exceed ten dollars ($10).
(7) Recovery fund, not to exceed thirty dollars ($30).
(8) Broker's and associate's applicant license criminal record check fee, not to exceed thirty dollars ($30).

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 escrow with the commission

(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 escrow with the commission provided that:
    (a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and
    (b) The licensee pays the annual license renewal fees for each year the license is in escrow.
(3) At the request of the licensee, upon the meeting of requirements applicable to active licensees and completion of all continuing education requirements, a license placed in escrow shall be

automatically converted to an active license upon payment of the established change fee.

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(6) 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 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 annual renewal, their telephone numbers and, if applicable, their electronic mail 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 licensees

(1) All real estate licensees, except those whose licenses are in escrow in accordance with KRS 324.310(2), shall carry errors and omissions insurance to cover all activities contemplated under this chapter.
(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 errors and omissions 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 annual policy at least thirty (30) days prior to the annual 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 annual 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 errors and omissions insurance coverage 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), 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 annual renewal date thereafter, the commission shall charge each of the aforesaid licensees an amount not to exceed thirty dollars ($30) 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 of thirty dollars ($30) to be deposited in the real estate education, research, and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal period.

(3) In addition to the license fees provided for in KRS 324.287, the commission, based upon its own discretion as to need, may assess each licensee upon renewal an amount less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant must pay the original amount of thirty dollars ($30), but on renewal will be subjected to the same renewal amount as other licensees.

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 two (2) years 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.lrc.ky.gov.

201 KAR 11:011. Definitions for 201 KAR Chapter 11

RELATES TO: KRS 324.010(1), 324.046(1), 324.111(1), (2), (3), (4), (6), 324.117(1), (5), 324.160(4)(j), (m), (r), 324.410(1), 324.420(1), (2), (3), (4), (5)

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) "Contract Deposit" means money delivered to a licensed agent as part of an offer to enter a contract for the sale of real property after:
  (a) The offer or counteroffer is accepted; and
  (b) An executory contract exits.

(3) "False, misleading, or deceptive advertising" means an advertisement that is prohibited pursuant to KRS 324.117(1) because the advertisement:
  (a) Is contrary to fact;
  (b) Leads a person to a mistaken belief or conclusion; or
  (c) Knowingly made a representation that is contrary to fact.

(4) "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.

(5) "Without unreasonable delay" means within three (3) business days of the creation of an executory contract for the sale or lease of real property.

201 KAR 11:030. License cancellation; reasons for

RELATES TO: KRS 324.310, 324.330

Section 1. A license shall be automatically cancelled if the licensee fails to promptly notify the commission, in writing, of any of the changes listed in KRS 324.330 (1) and (2).

201 KAR 11:045. Written offers to be submitted to owner-client, agreements to provide brokerage services, licensee duties

RELATES TO: KRS 324.160(4)(w)

Section 1. If a licensee has entered into a written listing agreement or any other written agreement under the terms of which the licensee agrees to provide one (1) or more real estate brokerage services for the owner of the property to be brokered by the licensee, the licensee shall, at minimum:

(1) Accept delivery and submit to his principal, owner-client, or customer, without delay, all written offers to lease or purchase the real estate that is the subject of the written agreement between the licensee and his principal, owner-client, or customer;

(2) Accept all earnest money deposits that are presented to him or her by other licensees involved in the lease or purchase of the real estate that is the subject of the written agreement between the licensee and his principal, owner-client, or customer;

(3) Assist his or her principal, owner-client, or customer in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to offers and counteroffers that are involved in the lease or purchase of the real estate that is the subject of the written agreement between the licensee and his principal, owner-client, or customer, until a lease or purchase agreement is signed and all contingencies that are satisfied or waived; and

(4) Answer his or her principal's, owner-client's, or customer's questions relating to offers, counteroffers, notices, and contingencies that are involved in the lease or purchase of the real estate that is the subject of the written agreement between the licensee and his principal, owner-client, or customer.

Section 2. Each licensee, who represents a prospective purchaser, shall, without delay, submit all written offers to lease or purchase real estate from the licensee's prospective purchaser-client or customer to the owner of the property or to the licensee who has entered into any written agreement with the property owner-client or customer to provide one (1) or more real estate brokerage services for the property owner-client or customer for a fee, compensation or other valuable consideration.

Section 3. Failure to comply with Section 1 or 2 of this administrative regulation shall constitute gross negligence and shall be subject to sanctions under KRS 324.160(4)(w).

201 KAR 11:062. Retention of brokers' records

RELATES TO: KRS 324.111, 324.160(6), 324.360

Section 1. A broker shall preserve, for five (5) years following its consummation, records in one (1) file relating to any real estate transaction, which shall include:

(1) Any written offers to lease or purchase real estate;
(2) The acquisition of and disbursement of any monies;
(3) Listing and sales contracts;
(4) Closing sheets;
(5) Property disclosure forms; and
(6) Agency disclosure forms.

201 KAR 11:090. Instruments prepared by broker; disposition

RELATES TO: KRS 324.160(4)(r)

Section 1. At the time of signing all instruments, a real estate broker shall deliver a copy of all instruments to all parties executing the instruments where the instrument has been prepared by the broker or under his supervision.

201 KAR 11:095. Closing statements

RELATES TO: KRS 324.160(4)(r), (w)

Section 1. A real estate broker shall furnish a debit and credit type closing statement to a buyer and seller upon closing a real estate transaction if the financial institution or the attorney involved in a real estate transaction fails to furnish a closing statement.

201 KAR 11:100. Exclusive listing contract; continuation

RELATES TO: KRS 324.160

Section 1. No real estate broker shall be a party to an exclusive listing contract which shall contain an automatic continuation of the period of such listing beyond the fixed termination date set forth therein.

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

RELATES TO: KRS 324.117(1),(4), 324.160(4)(w), (6)

Section 1. A real estate broker shall not offer real estate for sale or lease without the consent of the owner.

(1) If promoting or advertising the real estate to the general public, the broker shall have a written listing agreement signed by the owner.

(2) (a) After a closing has occurred, a buyer's agent may advertise his or her role in the sale.
  (b) The advertisement shall conspicuously state that his or her participation was as the buyer's agent.

Section 2. A sign shall not be placed on any property by a real estate licensee without the written consent of the owner.

Section 3.

(1) In accordance with KRS 324.117(4), a real estate property print advertisement of a licensee, or an offer or solicitation to provide brokerage services by a licensee, related to marketing or identifying real property for sale or lease, shall include the name of the real estate company where the licensee's license is held or the name of the real estate company's principal broker with whom the licensee is affiliated.

(2) If the advertisement includes the name of the real estate company's principal broker, the principal broker's name shall include his or her title as principal broker or be followed by any other clear designation of his or her status as a broker.

(3) The requirements in this section shall apply to advertisements for listed property only.

Section 4.

(1) An advertisement by a licensee shall be approved by
   (a) The principal broker with whom the licensee is affiliated; or
   (b) An individual designated by the principal broker to approve the advertisement.

(2) A principal broker shall require his or her licensee to:
   (a) Discuss with the property owner-client the advertising requirements of KRS 324.117;
   (b) Provide the owner-client with written notice of these advertising requirements; and
   (c) Obtain the owner-client's written agreement to comply with the advertising requirements.

Section 5. A licensee may advertise public information, such as sales price, of properties that have sold and closed, even if the licensee did not have a written listing agreement on the property.

Section 6. A licensee may advertise 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.

201 KAR 11:110. Exclusive authority retained by original broker

RELATES TO: KRS 324.160

Section 1. No real estate broker shall induce any party to a contract or sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract with another principal.

201 KAR 11:115. Auction obligations

RELATES TO: KRS 324.160

Section 1. Any real estate broker who advertises real property at absolute auction is obligated to the public to sell said property to the highest bona fide bidder on the day of the auction.

201 KAR 11:121. Improper conduct

RELATES TO: KRS 324.010(3), 324.160(4), (f), (l), (m), (o), (w), (v), (5), (7)

Section 1. Definition "Guaranteed sales plan" means an offer or solicitation to guarantee the:

(1) Sale of an owner's real estate; or

(2) Purchase of the owner's real estate if the owner's real estate is not sold by the broker.

Section 2

(1) It shall constitute improper conduct for a licensed agent to:
   (a) Accept or agree to accept, without written disclosure to the seller and buyer or lessor or lessee on the purchase or lease contract, a referral fee from any person in return for directing a client or customer to that person, or another, who provides or agrees to provide any goods, service, insurance or financing related to a transaction involving real estate. This provision shall not affect paying or receiving referral fees between licensed agents for brokerage services.
   (b) Refuse or prohibit any prospective purchaser from viewing or inspecting real estate listed for sale or lease with the agent, or with the agent's company, without the written and signed direction of the owner. This provision shall not be construed to permit otherwise unlawful discrimination;
   (c) 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;
      6. Accounting;
   (d) Advertise a guaranteed sales plan without:
      1. Disclosing 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; and
         d. The owner of the real estate shall purchase other real estate listed for sale for the licensee or his or her designee; and
      2. Including, in:
         a. Print advertising, letter that shall be at least twenty-five (25) percent the size of the largest letter in the advertisement;
         b. Radio advertising, communication that shall be clearly understandable; or
         c. Television advertising:
            (i) Verbal communication that shall be clearly understandable;
            (ii) Written communication that shall appear on the screen at least three (3) seconds for the first line of lettering and at least one (1) one second for each additional line of lettering and 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 letter if uppercase capitals and lowercase letters are used; or
            (iii) Any combination of verbal and written communication that shall comply with the requirements of this clause; or
   (e) Violate a provision of KRS Chapter 324 or 201 KAR Chapter 11 governing brokers, sales associates, or real estate transactions.

(2) It shall not be considered improper conduct for a licensed agent to advertise the fee or other compensation the licensed agent agrees to charge for his or her services.

201 KAR 11:135. Standards for filing a sworn statement

RELATES TO: KRS 324.045, 324.046(3), 324.160(4)(a), (v)

Section 1. Any affiant 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.

201 KAR 11:145. Salesman's duties when terminating affiliation with broker

RELATES TO: KRS 324.010(14), 324.160(4)(g), (v), 324.310

Section 1. Unless there is a written contract stipulating otherwise, a real estate salesman shall, upon termination of his affiliation with a real estate broker, immediately turn over to the broker any and all listing information obtained during his affiliation whether the information was originally given to him by his broker or copied from the records of the broker or acquired by the salesman during his affiliation.

201 KAR 11:147. Procedure for license retention when sales associate released by broker

RELATES TO: KRS 324.010(15), 324.160(4)(u), 324.310, 324.330

Section 1.

(1) Upon receipt, by regular mail, from the principal broker, of the released license for a sales associate pursuant to KRS 324.310(1), the commission shall notify the sales associate by regular mail at his or her last resident address on file at the commission office that, within thirty (30) days of the date of the release letter, the associate shall:
   (a) Reaffiliate with another broker; or
   (b) Request by letter that his or her license be placed in escrow.

(2) Failure by the sales associate to comply with the order issued by the commission pursuant to subsection (1) of this section shall:
   (a) Be a violation of KRS 324.160(4)(u); and
   (b) Result in the cancellation of the associate's license.

Below is an emergency regulation and is effective immediately in order to allow sufficient time for course development and approval prior to the implementation of KRS 324.085. This emergency regulation will be replaced with an ordinary administrative regulation.

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

RELATES TO: KRS 324.010(7), 324.046(1), (2), 324.085

Section 1.

(1) To apply for certification as an approved real estate school or to renew certification, a real estate school shall submit a:
   (a) Completed Provider Application – Form E101, including the information required concerning curriculum, instructors, required textbooks, educational materials and policies of the school;
   (b) Copy of the license from the Kentucky Commission on Proprietary Education, if applicable;
   (c) Sample schedule to outline how a course will be presented;
   (d) Completed detailed Course Outline – Form 105 broken into four (4) hour increments to include teaching methods, learning objectives for the course, auxiliary aids and materials for each course, which shall include:
      1. Instructor Application – Form E100 and any additional documents required to explain a response on the application for each instructor who will teach this course, as required by 201 KAR 11:175; and
      2. A copy of the written material, other than the textbook or real estate license law manual, which the instructor will use in the classroom;
   (e) Sample copy of a school brochure or information sheet promoting the school;
   (f) Copy of legal documentation required to support an answer, if applicable;
   (g) A sample copy of an official transcript that will be issued by the school.
   (h) A copy of contract or agreement signed by the student which outlines the class schedule, assignments or projects, examination requirements, grading system, and attendance requirements; and
   (i) Other documents as outlined in Section 2 of this administrative regulation.

(2) An approved real estate school shall include a statement in the school application that a criminal conviction may prevent an applicant from qualifying for licensure under KRS 324.045. Failure to do so may result in suspension of an approved school's certification until the information is included in the application.

(3) An approved real estate school shall notify the commission within ten (10) days of a material change in the information originally furnished on the application or in an attachment to the application.

(4) A renewal application shall be submitted by October 1 of each even numbered year. The approval shall be for a two (2) year period, beginning November 1.

Section 2.

(1) The curriculum for a pre-license course at an approved real estate school shall:
   (a) Include a minimum of:
      1. Three (3) academic hours per course; or
      2. Fifteen (15) hours for a course related to the appraisal of property;
   (b) Be conducted for a maximum of no more than seven (7) academic hours during a twenty-four (24) hour period;
   (c) 1. Consist of a course containing the topics listed in the Pre-License Prescribed Topics – Form E112 by the Real Estate Commission.
      2. A real estate course shall be one that is designated specifically as a real estate course by an approved or accredited real estate school that offers the course.
      3. The academic content for the course shall specifically focus on real estate.
      4. The course shall be for academic credit and not a continuing education unit, examination preparation or review, experiential education, or competency testing.
      5. A candidate shall not submit completion of the same course or essentially the same course twice for licensure credit;
   (d) 1. Include a closed-book monitored final examination of at least:
         a. Seventy-five (75) multiple choice questions for a three (3) academic hour course; or
         b. 100 multiple choice questions for a six (6) academic hour course.
      2. The passing score shall be seventy-five (75) percent in order to pass the course.
      3. Examination questions shall cover all aspects of material covered in the course, including applicable license laws and administrative regulations.
      4. One (1) retake of the examination shall be permitted; and
   (e) Include in all real estate pre-license courses, a practicum or project applicable to the topic, that shall be completed with a passing score and averaged with the final examination and other components or assignments required in the course, as part of the student's final grade.

(2) The application for course approval shall include a copy of the final examination and answer key, an explanation and copies of the project or practicum that shall be required of students, when that assignment shall be due, and how the final grade for the course shall be calculated.

(3) (a) All primary and secondary providers offering online pre-license or other distance education courses shall be approved in accordance with the provisions set forth in 201 KAR 11:240.
   (b) The commission shall review the content to ensure that it meets the requirements outlined in this administrative regulation and in 201 KAR 11:240.

(4) (a) The application and all required attachments shall be submitted to the commission for consideration at its next regularly-scheduled meeting.
   (b) The provider shall be notified in writing of the commission's approval or denial of the course for academic credit.

Section 3. Each real estate pre-license course completed at an out-of-state accredited institution, for which credit may be granted under this section shall be approved or rejected under the following procedure:

(1) A course description from the school catalog, course syllabus, table of contents from text used in the course, or other summary of the course shall be provided to the commission by the applicant;

(2) The commission education director shall review the material submitted by the applicant and recommend the commission either grant or reject credit under this section at the commission's regular monthly meeting;
(3) The commission education director shall record:
  (a) The name of the course;
  (b) Whether approval was granted or rejected; and
  (c) The date of approval or rejection.
(4) If a course has been previously approved by the commission under this section or if a course is substantially similar to a previously-approved course, the commission education director shall be authorized to determine course approval;
(5) In determining whether a course is substantially similar to a previously-approved course, one (1) or more of the following items shall be considered:
  (a) The table of contents from text used in the course;
  (b) The course syllabus;
  (c) Course description from the school catalog; or
  (d) Other summary of the course.
(6) The commission's education director shall notify an applicant if a course is rejected for credit under this section;
(7) (a) If an applicant disagrees with the education director's decision under this section, he or she shall, within ten (10) days from the date of the education director's notification of rejection, file with the commission a written request for a commission review of its education director's decision.
  (b) The request shall specifically indicate the applicant's disagreement.
  (c) Failure to indicate disagreement within the ten (10) day period shall constitute waiver by the applicant and the education director's decision shall become final;
(8) (a) In addition to notifying the education director of disagreement with his or her decision, the applicant shall provide a written summary to the education director detailing why credit under this section is merited.
  (b) The commission education director shall forward this summary to the commission along with his or her response to the commission for a final decision at the commission's regular monthly meeting.
  (c) Failure to provide within ten (10) days a specific summary detailing why credit is merited under this section shall constitute waiver by the applicant and the education director's decision shall become final at that point;
(9) (a) If the applicant indicates disagreement with the education director's decision within ten (10) days of notification and provides a written summary detailing the disagreement within ten (10) days of notification, the commission shall consider the submissions from the applicant and the education director and reject or approve the course for credit under this section.
  (b) The commission shall notify the applicant of its decision in writing.

Section 4. An approved real estate school shall not:
(1) Advertise in conjunction with the business of a broker or a brokerage firm; or
(2) Discuss, induce, or promote affiliation with a broker or brokerage firm.

Section 5.
(1) An approved real estate school shall maintain accurate and permanent records on each student enrolled in a course.
  (a) A permanent record shall include each student's record of courses completed or attempted, academic hours awarded, and final grades.
  (b) A certificate of completion shall be:
    1. Included in the permanent records of each student; and
    2. Mailed to each student upon completion of a course.
(2) Records shall:
  (a) Be maintained for three (3) years; and
  (b) Include student attendance records, final grade, and test scores.
(3) An approved real estate school shall notify the commission, in writing, within five (5) days of the beginning of a pre-license course. Notice shall include the name of course, class location scheduled dates and times the class will be offered.
(4) Schools and instructors shall take appropriate steps to maintain the confidentiality of the final examinations at all times. These steps shall include:
  (a) Maintaining 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; and
  (c) Monitoring students at all times when examinations are being conducted.

Section 6.
(1) An approved real estate school shall permit an inspection and monitoring by the commission or its designee to evaluate an aspect of the administration or operation of the school or to evaluate the performance of the instructor.
(2) Monitoring may include a periodic mailing by the commission to students seeking an evaluation of his or her pre-license course and instructor.

Section 7.
(1) Private school approval may be withdrawn if the commission determines that:
  (a) Information contained on the application or renewal is inaccurate or misleading;
  (b) The establishment or conduct of the school is not in compliance with this administrative regulation or the instruction is so deficient as to impair the value of the course; or
  (c) The school is not certified by the Kentucky Commission on Proprietary Education.
(2) If the commission has notice that a school's approval may be subject to withdrawal for the reasons set forth in subsection (1) of this section, the commission shall:
  (a) Give written notice to the school of the intent to withdraw approval and the reasons therefor;
  (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; and
  (c) Review the issues and the school's response, and the commission may withdraw approval of the school.

Section 8. An effort made directly or indirectly by a school, official or employee, or a person on their behalf to reconstruct the real estate licensing examination or portion of the examination shall result in immediate revocation of school approval.

Section 9. Incorporation by Reference.
(1) The following material is incorporated by reference:
  (a) "Instructor Application – Form E100", 05/15 edition, Kentucky Real Estate Commission;
  (b) "Provider Application – Form E101", 05/15 edition, Kentucky Real Estate Commission;
  (c) "Course Outline – Form E105", 05/15 edition, Kentucky Real Estate Commission; and
  (d) "Pre-license Prescribed Topics – Form E112", 05/15 edition, Kentucky Real Estate Commission.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

Below is an emergency regulation and is effective immediately in order to allow for recruitment, selection and approval of instructors prior to the implementation of KRS 324.085. This emergency regulation will be replaced with an ordinary administrative regulation.

201 KAR 11:175E. Instructor approval procedures and guidelines

RELATES TO: KRS 324.010(7)

Section 1. To apply for certification as an instructor at an approved real estate school, an instructor shall:

(1) Submit a:
  (a) Completed Instructor Application – Form E100;
  (b) Copy of a current resume;
  (c) Copy of legal documentation required to support an answer, if applicable; and
  (d) Completed Course Outline – Form E105 for each course;

(2) Have:
  (a) A bachelor's, masters or doctorate 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, finance, or education;
  (b) An associate degree in real estate from a college or university duly accredited by a nationally recognized rating or accrediting organization;
  (c) Completed five (5) consecutive years full-time experience in the real estate related subject area that he is teaching (averaging at least twenty (20) hours per week for each of the five (5) years); or
  (d) A combination of teaching, education, and full-time experience in real estate totaling five (5) years (averaging at least twenty (20) hours per week for each year of experience); and

(3) Possess:
  (a) A thorough familiarity of the provisions of KRS Chapter 324 and the effect of those provisions on the subject area of the course; and
  (b) A thorough knowledge of the subject area of the course he is teaching.

Section 2. Approval of an instructor shall be withdrawn by the commission for:

(1) A violation of a provision of KRS Chapter 324 or an administrative regulation promulgated under it;
(2) Falsification of material submitted to the commission to become an approved instructor;
(3) Failure to provide to the commission requested material;
(4) While acting as an instructor in an educational facility, engaging in brokerage activity with an enrolled student;
(5) Soliciting an investment from a student; or
(6) Attempting to recruit a student to a real estate company while acting as an instructor.

Section 3.

(1) An approved instructor may teach:
  (a) A pre-licensure course offered by an:
    1. Approved real estate school; or
    2. Accredited real estate school which receives funding under the real estate education, research and recovery fund;
  (b) A mandatory continuing education course; or
  (c) A post-license education course.

(2) A person who is not an approved instructor shall not teach a course listed in subsection (1) of this section.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:
  (a) "Instructor Application – Form E100", 05/15 edition, Kentucky Real Estate Commission; and
  (b) "Course Outline – Form E105", 05/15 edition, Kentucky Real Estate Commission.

(2) This material may be inspected, copied, or obtained at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 11:180. Promotion of out-of-state property, restrictions and prerequisites

RELATES TO: KRS 324.020(6), 324.142

Section 1. Definitions.

(1) "Promotional activities" means every solicitation or attempt to bring about the sale, exchange, lease, assignment, license or award with regard to an interest in real estate.
  (a) A time-share estate, wherein a freehold estate or an estate for years is conveyed;
  (b) A vacation lease, wherein 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, wherein a buyer acquires the right to occupy an undesignated unit at certain real property(ies) during a specific time each year for a specific number of years;
  (d) Variations of the above 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.

(2) "Time-share" 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 time-share may be:
  (a) A time-share estate, wherein a freehold estate or an estate for years is conveyed;
  (b) A vacation lease, wherein the 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, wherein a buyer acquires the right to occupy an undesignated unit at a certain real property(ies) during a specific time each year for a specific number of years; or
  (d) Variations of the above 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.

Section 2. To obtain commission approval for engaging in promotional activities in the Commonwealth for property located outside of the Commonwealth, each applicant shall file with the commission the applicable documents set forth below:

(1) "Registration of out-of-state properties and time share" form setting forth pertinent date pertaining to: legal description of property, name(s) of developers, owners and persons involved in promotional activities, type of offering, form of ownership of property, encumbrance(s) on property, current and anticipated improvements, taxes and assessments, facilities and services offered or to be offered in the future, and description of promotional activities to be conducted in Kentucky.
(2) (a) If a corporation, submits a copy of the Articles of Incorporation with all amendments thereto and a current list of the names and addresses of officers and directors with their principal occupation at the current time,
  (b) Out-of-state corporations must also submit "certificate of authority" issued by the office of the Secretary of State of the Commonwealth of Kentucky.
(3) If a partnership or association, submits a copy of Articles of Partnership or other organizational documents.
(4) "Consent to Service of Process" form.
(5) Copies of all sales contracts, agreements, option forms, lease forms, and the prospectus currently used for the property.
(6) "Consent to Inspect" form, for commission to inspect the real estate being promoted and to inspect and copy books and reports of the owner and/or developer at the cost of the applicant.

Section 3. Exemptions. The registration required under Section 2 of this administrative regulation shall not apply to:

(1) The making of any offer or disposition of any out-of-state property:
   (a) By an owner in a single or isolated transaction;
   (b) By any government or government agency; or
   (c) By court order.
(2) Any applicant that has been granted an exemption by the Kentucky Real Estate Commission on the grounds that their promotional activities involve property of a small amount or of such a limited character that the public interest and protection of purchasers is deemed unnecessary with regard to said offerings.
(3) Any applicant who has registered under the Federal Interstate Land Sales Full Disclosure Act shall be exempt from the registration requirements contained in Section 2 of this administrative regulation, upon the filing with the commission of a copy of an effective statement of record filed with the Secretary of Housing and Urban Development.

Section 4. Sellers of time-share plans in Kentucky regardless of location of property shall verify, on the "Affidavit of Timeshare Developer" form:

(1) That each purchaser shall receive a fully completed copy of any contracts pertaining to the sale which includes the date of execution of contract, financial obligations of purchaser (including initial purchase price and any additional charges to which purchaser may be subject), estimated date of availability of accommodation or facility which is not completed at time of contract, and a description of the nature and duration of the time-share being sold.
(2) That each purchaser shall be informed orally at the time he or she signs a contract of the purchaser's right to rescission, which shall be substantially similar to that set forth in subsection (3) of this section.
(3) That all sales contracts utilized in the promotion and sale of said time-share plans shall include in underlined, bold face type of a minimum size of ten (10) points substantially the following statement:

   "You may cancel this contract without any penalty or obligation within three (3) business days from the above date. If you cancel, any payments made by you under the contract and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

   If you decide to cancel this contract, you must notify the seller in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to:
   Name of seller at:
   Address of seller:
   NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN THOSE INCLUDED IN THIS CONTRACT."

(4) That if no interest in real property is being conveyed, contracts shall also contain the following statements in underlined, bold face type of a minimum size of ten (10) points: "You may also cancel this contract at any time after the accommodations or facilities are no longer available as provided in this contract."

Section 5.

(1) Violation of any of the requirements of this administrative regulation or failure to comply with the provision of the notice of cancellation by a licensee shall constitute a violation of KRS 324.160(4)(u) of this administrative regulation.
(2) Pursuant to KRS 324.142, commission approval is required for a licensee to promote out-of-state property and time-shares, even if exempted from other registration requirements under Section 3 of this administrative regulation. Violation of any of the requirements of this administrative regulation or failure to comply with the provision of the notice of cancellation by an owner/developer shall result in either revocation or denial of approval, whichever is applicable, and may be enforced by injunctive action under KRS 324.020(6).

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:
   (a) "Registration of Out-of-State Properties and Time Shares" (1985);
   (b) "Consent to Service of Process" (1985);
   (c) "Consent to Inspect" (1985); and
   (d) "Affidavit of Timeshare Developer" (1985).
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday – Friday, 8 a.m. to 4:30 p.m.

201 KAR 11:190. Rules of practice and procedure before the Kentucky Real Estate Commission

RELATES TO: KRS 324.150, 324.151, 324.160, 324.170, 324.200, 324.281(5)

Section 1. Complaint Review and Investigation.

(1) An aggrieved party shall file a Sworn Statement of Complaint against a licensed real estate sales associate or broker. The complaint shall:
   (a) Allege a prima facie case of specific violation of KRS 324.160 in accordance with KRS 324.151;
   (b) State the basis of the complaint fully and concisely, including the name of the broker or principal broker;
   (c) Be notarized by a notary public;
   (d) Include a completed damages claimed form, with a copy of each receipt, estimate, or other evidence of damages attached to the report; and
   (e) Be filed within two (2) years from:
      1. Actual knowledge of the cause of action; or
      2. The time circumstances would reasonably have put the aggrieved party on notice of the cause of action.
(2) If the commission staff review determines the Sworn Statement of Complaint does not allege a prima facie case of a specific violation of KRS 324.160, the aggrieved party shall file a Sworn Supplement to Complaint in accordance with KRS 324.151.
(3) A respondent shall file a Sworn Answer to Complaint if a complaint is filed against him in accordance with the requirements of KRS 324.151(3). The answer shall:
   (a) Identify the respondent;
   (b) State his responses to the complaint;
   (c) Be notarized by a notary public; and
   (d) Include a copy of the following documents:
      1. Listing contract;
      2. Purchase contract;
      3. Seller's disclosure form;
      4. Agency disclosure form; and
      5. Settlement statement.
(4) Upon completion of an investigation following the submission of a complaint and answer, the commission shall:
   (a) 1. Dismiss the case without an administrative hearing if the facts or evidence do not indicate a prima facie case for a violation of KRS Chapter 324; or
      2. Schedule an administrative hearing pursuant to KRS Chapter 13B, 324.151, and 324.170; and
   (b) Notify the complainant and respondent of its decision in writing. The notification shall include a brief statement explaining the commission's reasons for the decision.

Section 2. Motions.

(1) A request for the commission or a hearing officer to take or refrain from taking an action shall be made by an oral or written motion.
(2) A motion shall state the basis for the motion, including a citation to or description of the legal authority in support of the requested action, if applicable.

(3) A party shall be given an opportunity to respond to a motion.

Section 3. Withdrawal of a Complaint. A complainant may withdraw a complaint if:

(1) (a) An answer has not been filed in accordance with KRS 324.151; and
(b) The withdrawal is made within twenty (20) days of the date the complaint was filed; or

(2) (a) There is good cause for the withdrawal; and
(b) The commission approves the withdrawal.

Section 4. Consolidation and Severance.

(1) A hearing officer may consolidate cases assigned to his docket upon a finding by the hearing officer that:
(a) There are:
1. Common questions of law or fact; or
2. Identical issues or witnesses; and
(b) Consolidation is appropriate.

(2) A hearing officer may sever consolidated cases or claims in an administrative action upon a finding that the requirements for consolidation established in subsection (1) of this section are not met.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:
(a) "Sworn Statement of Complaint" 3/01 edition, Kentucky Real Estate Commission;
(b) "Sworn Answer to Complaint", 7/98 edition, Kentucky Real Estate Commission; and
(c) "Sworn Supplement to Complaint", 10/00 edition, Kentucky Real Estate Commission.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

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

RELATES TO: KRS 324.010, 324.040, 324.045(1), (2), (3), 324.046

Section 1. In lieu of proof of high school graduation or a GED diploma, an applicant may submit an official transcript from a United States institution, or from an institution outside of the United States as indicated in Section 2 of this administrative regulation, which indicates completion of a degree program at a post secondary institution, or a transcript from a United States institution, or from an institution outside of the United States as indicated in Section 2 of this administrative regulation, which indicates successful completion of twenty-eight (28) academic semester hours or equivalent from a post secondary institution.

Section 2.

(1) If an applicant submits documentation qualifying education in a language other than English, the diploma or transcript shall be translated by a disinterested third party.

(2) The entity shall provide:
(a) a translation of the documents; and
(b) a certification stating that the translation is true, accurate, and complete.

(3) 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:
(a) International Education Research Foundation, www.ierf.org;
(b) International Education Evaluations, www.iee1981.com; or
(c) World Education Services, www.wes.org/fees/evaltypes.asp.

(4) If the applicant is unable to comply with the requirements of this section, the applicant shall furnish proof of the receipt of a GED granted by an agency or institution with the United States.

Section 3. An official transcript is a document imprinted with the institution's seal, signed by the registrar, and sent directly from the institution to the commission.

Section 4. An applicant who successfully passes the real estate examination shall apply for a license within sixty (60) days after the examination. A candidate who fails to apply for a license within this period shall be reexamined.

201 KAR 11:215 License Recognition; application requirements

Section 1. Definitions.

(1) "License recognition" means a licensing process that:
(a) Replaces reciprocal agreements; and
(b) May be used to obtain a Kentucky license by an individual who holds an active and unrestricted out-of-state sales associate's or broker's license, or the equivalent of either.

(2) "Unrestricted license" means a license that is not under any order of limitation or discipline by another jurisdiction's regulatory body.

Section 2.

(1) An individual who is actively engaged, outside Kentucky, in real estate brokerage activities as a sales associate or broker, or the equivalent of either, may apply for a Kentucky license that is the same as, or equivalent to, the individual's out-of-state license, if the individual's out-of-state license is active and unrestricted.

(2) To obtain a license by recognition, an individual shall:
(a) File with the commission a criminal background check in accordance with KRS 324.045(5)(a) and (b) and 201 KAR 11:430;
(b) File with the commission a certification of licensure issued by the regulatory authority of each state in which the individual has, at anytime, held a real estate license, in accordance with KRS 324.141(2);
(c) Pass the state law portion of the licensing examination for either a sales associate's license or a broker's license, whichever is applicable and is the equivalent of the individual's active out-of-state license when filing his or her application with the commission; and
(d) Apply for a Kentucky license within sixty (60) days of completion of the licensing examination. An applicant who fails to apply for a Kentucky license within the sixty (60) day period shall retake the examination.

Section 3. A licensee who has obtained a Kentucky license by recognition shall comply with the provisions of KRS Chapter 324 and 201 KAR Chapter 11.

201 KAR 11:220. Errors and omissions insurance requirements

RELATES TO: KRS 324.010, KRS 324.020, KRS 324.395

Section 1.

(1) An insurance company providing real estate errors and omissions insurance for real estate licensees must provide a signed certification to the insured licensee which shall confirm that the obligations of the insurance company meet the minimum requirements set forth in this administrative regulation\

(2) A licensee who chooses to be insured by other than the group insurance policy obtained by the Commission shall file the private carrier certification of coverage with the license renewal application in accordance with KRS 324.395(6). This certification shall be available on the Commission's Web site, www.krec.ky.gov, and shall be included in the yearly renewal package mailed to all principal brokers.

Section 2. The insurance for which the certification has been executed shall not be terminated, cancelled, lapsed, or nonrenewed unless the insurance company has provided the Commission with prior written notice.

Section 3. The minimum requirements for the coverage contained in the insurance policy for which the certification has been executed shall provide that:

(1) Coverage shall be that known as real estate agents errors and omissions insurance or real estate agents professional liability insurance.

(2) The limit of liability shall not be less than $100,000 for any one (1) claim, excluding the cost of investigation and defense, nor less than $1,000,000 annual aggregate limit of liability, excluding the cost of investigation and defense. A principal broker who decides to purchase independent errors and omissions "firm coverage" insurance shall have the following aggregate amounts:
   (a) One (1) to forty (40) licensees shall carry a $1,000,000 annual aggregate; or
   (b) Forty-one (41) or more licensees shall carry a $2,000,000 annual aggregate.
(3) The maximum deductibles, which may be separate deductibles, shall not exceed $2,500 for judgment or settlement and $1,000 for the cost of investigation and defense.
(4) Coverage shall apply for any covered claim resulting from a licensed activity that occurred subsequent to April 1, 1987 unless such claim had been made against the licensee before the present insurance policy's inception or is insured by a previous insurance policy.

Section 4. Except as provided in Section 5 of this administrative regulation, coverage shall not exclude claims brought against the insureds arising out of an act or failure to act by the insured licensee when performing a professional service for which a license is required by the Commonwealth of Kentucky under KRS 324.020.

Section 5. Coverage may exclude claims brought against the insureds, regardless of whether the professional service involves an activity for which a license is required by the Commonwealth of Kentucky:
(1) Arising out of a dishonest, fraudulent, criminal or malicious act, error, or omission, if committed by, at the direction of, or with the knowledge of the insured;
(2) Arising as a result of the insolvency of the insured;
(3) Brought about or contributed to by any inability or failure to pay or collect premium, escrow, or tax money;
(4) Brought about by any employee, or former employee arising out of the contract of employment with the insured and alleging breach thereof;
(5) Arising out of any injury or damage which the insured either expected or intended;
(6) Brought about by bodily injury, sickness, disease or death of any person or physical injury to or destruction of or loss of use of tangible property;
(7) Arising out of libel, slander, defamation of character, false arrest or imprisonment, wrongful entry or eviction or other invasion of the right of private occupancy, publications or utterances in violation of an individual's right of privacy, or malicious prosecution;
(8) Arising out of services performed by the insured which are subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, as amended;
(9) Arising out of any violation of the Securities Act of 1933, 15 U.S.C. 77a, as amended or the Securities Exchange Act of 1934, 15 U.S.C. 78a, as amended or any state blue sky or securities law or similar state or federal statutes;
(10) Arising out of the conversion, misappropriation, commingling, or defalcation of funds or other property;
(11) Brought against a real estate property manager for failure to effect or maintain adequate levels or types of insurance;
(12) Arising out of unlawful discrimination;
(13) Arising out of liability assumed by the insured under any indemnity, hold harmless or similar provisions or agreements, but this exclusion does not apply to liability the insured would have in the absence of these agreements;
(14) (a) Arising
      1. Out of the insured's business; and
      2. By or on behalf of an investor, shareholder, or partner in any corporation, limited or general partnership, real estate trust, or venture in which the insured has; or had; a participating interest, directly or indirectly, in the profits or losses; or
   (b) In connection with the insured's activities as an underwriter, sponsor, partner, joint or coventurer, or member in any real estate partnership, venture or syndicate;
(15) Arising out of, relating to, or based upon the dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or other material, irritant, contaminant or pollutants. Pollutants shall include any solid, liquid, gaseous, thermal, biological or radioactive substance, material, matter, toxin, irritant or contaminant, including radon, asbestos, chemicals and waste. Waste shall include materials to be recycled, reconditioned, or reclaimed;
(16) Excluded by the Nuclear Energy Liability Exclusion Endorsement (broad form) filed by the Insurance Services Office, Inc. with the Kentucky Department of Insurance and identified as form #IL 00 21 11 85.
(17) (a) Arising from the sale or property management of property developed, constructed, or owned by:
      1. The insured:
      2. Any firm or corporation in which the insured has a financial interest:
      3. Any firm coming under the same financial control as the insured.
   (b) This exclusion does not apply and coverage shall be extended to claims arising from the sale of real property, if all three (3) of the following conditions are met:
      1. The property was acquired by the insured under a guaranteed sale listing contract;
      2. The title to the property was only temporarily held by the insured during the transit period, not to exceed one (1) year, from acquisition to resale; and
      3. The property is listed for sale during the entire transit period; or
(18) Arising out of the interests, operations, or activities of the insured as a mortgage banker or correspondent, escrow agent, construction manager, or property developer (an insured will not be considered engaging in the activities of an escrow agent merely because the insured holds earnest money deposits, rental deposits, or similar items).

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

RELATES TO: KRS 324.090, 324.287(6), 324.330

Section 1. A renewed license shall be valid from April 1 to March 31, annually, and shall be canceled by the commission if not renewed by March 31 of each year.

Section 2. Licensee Name Changes. A licensee shall notify the commission of his or her legal name change by promptly completing, signing, and filing with the commission the "Licensee Name Change" form. This form shall be accompanied by the change request fee required by KRS 324.287(6). The fee shall be ten (10) dollars.

Section 3. Licensee Residence Changes, E-mail Addresses, and Telephone Numbers.
(1) A licensee shall notify the commission of a change of his or her residence address by completing, signing, and filing with the commission the "Change of Residential/E-mail Address" form, within ten (10) day from the date of the change.
(2) During the commission's annual online renewal process, a licensee shall provide his or her direct telephone number and electronic mail address, if applicable. A licensee shall promptly report any changes to this information by completing, signing, and filing with the commission the "Change of Residential/E-mail Address" form.
(3) The "Change of residential/E-mail Address" form shall be accompanied by a completed and signed "Consent to Service of Jurisdiction," if applicable.

Section 4. Change of principal business location, firm name, or branch name. A principal broker shall notify the commission of any change of his or her principal business location, firm name, or branch office name by promptly completing, signing, and filing with the commission the

"Request to Change Firm Name – Firm Address – Branch Address" form. This form shall be accompanied by the change request fee required by KRS 324.287(6). The fee shall be ten (10) dollars.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:
   (a) "Licensee Name Change", August 2011;
   (b) "Change of Residential/E-Mail Address", August 2011
   (c) "Consent to Service of Jurisdiction", April 2011; and
   (d) "Request to Change Firm Name – Firm Address – Branch Address", August 2011

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, 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 (38 Ky.R. 1670; Am. 1835; eff. 6-1-2012.)

201 KAR 11:230. Continuing education requirements

RELATES TO: KRS 324.010(7), (8), 324.046(5), 324.085(1), (2), 324.090, 324.160(1)(c), 324.160(4)(u), 324.281(7)

Section 1. Mandatory Continuing Education.

(1) An active licensee, licensed by the commission on or after June 19, 1976, shall meet the requirements of KRS 324.085(1) by attending and successfully completing six (6) hours of continuing education courses that are sponsored or approved by the commission by December 31 of each calendar year. An active license shall receive continuing education credit for any approved course taken, if he or she files with the commission a certificate of completion for each course for which credit is sought by December 31 of each calendar year. These courses may be taken in one (1) to six (6) hour increments. An active license shall not be renewed unless the licensee has complied with the provisions of this administrative regulation.

(2) An active licensee shall attend a commission-approved core course once every four (4) years. 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 KRS Chapter 324, 201 KAR Chapter 11, common and federal law relating to real estate, and the standards of practice for a real estate licensee.

(3) When a licensee is first licensed in Kentucky, his or her year of compliance shall be assigned by the commission based upon the following schedule:
   (a) If the licensee's birth month is January, February, or March, the licensee shall take the core course in the first year of a four (4) year cycle.
   (b) If the licensee's birth month is April, May, or June, the licensee shall take the core course in the second year of a four (4) year cycle.
   (c) If the licensee's birth month is July, August, or September, the licensee shall take the core course in the third year of a four (4) year cycle.
   (d) If the licensee's birth month is October, November, or December, the licensee shall take the core course in the fourth year of a four (4) year cycle.

(4) Continuing education hours exceeding the amount required shall not be carried forward to the next year's requirements or used to reactivate a license in the next calendar year.

(5) Hours of instruction in prelicense real estate education courses, unless it is the licensee's year to complete the core course, shall be credited to the mandatory continuing education requirements for the calendar year in which it is taken and completed. The licensee shall submit a transcript or course completion certificate for the prelicense course in order to receive credit toward the continuing education requirements for that calendar year.

Section 2. Exemptions from the Mandatory Continuing Education Requirement.

(1) The provisions of this administrative regulation shall not apply to any person licensed by the Commission prior to June 19, 1976.

(2) A licensee shall not be required to attend a continuing education course during the first calendar year in which he or she is first licensed in Kentucky.

(3) (a) An escrowed licensee shall not be required to attend continuing education courses while the license remains in escrow.
   (b) Before a license is changed from escrow to active status, a licensee shall provide the commission with documentation of the completion of the current calendar year's continuing education requirements.
   (c) If the licensee has not completed the core course in the previous four (4) years as required, the core course shall become the current calendar year's continuing education requirement for a license changing from escrow to active.

Section 3. Continuing Education Course Criteria.

(1) One (1) hour of continuing education shall be allowed for each fifty (50) minutes of actual attendance.

(2) To receive approval, courses shall:
   (a) Be in hourly increments from one (1) to six (6) hours
   (b) Be real estate specific
   (c) Consist of topics that shall:
      1. Enable the student to better understand the brokerage business; and
      2. Serve the public.

(3) A course that is motivational or considered to be personal development in nature shall not be approved.

(4) All course approvals shall expire on December 31 of each calendar year.

(5) All primary or secondary providers wishing to offer online or other distance education courses, as outlined 201 KAR 11:240, shall be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC) as to format and delivery systems of the program. The commission shall review the content to ensure that it meets the requirements outlined in 201 KAR 11:240.

Section 4. Continuing Education Course Provider Requirements.

(1) An education course shall be sponsored by:
   (a) An accredited institution;
   (b) A school that has been given a certificate of approval by the Kentucky State Board of Proprietary Education;
   (c) An appropriate governmental regulatory body; or
   (d) An approved real estate school as defined in KRS 324.010(7)(b).

(2) To apply for approval of a continuing education course, a provider shall submit a:
   (a) Completed Continuing Education Provider Application, which shall:
      1. Include a completed Course Outline form, broken into fifteen (15) minute increments, to include learning objectives for the course, teaching methods, auxiliary aids, materials, and the policies of the provider; and
      2. Be signed by the sponsor's administrator to indicate compliance with applicable law and the requirements of this administrative regulation;
   (b) Copy of the Certificate of Approval from the Kentucky State Board for Proprietary Education, or the Kentucky Department of Education, unless the provider is an accredited college or university; or an approved real estate school as defined in KRS 324.010(7).
   (c) Completed Real Estate Instructor Application for each instructor who will teach the course, as required by 201 KAR 11:175; and
   (d) Copy of all advertising or brochures advertising the continuing education course.

(3) The course provider shall agree that all instructors shall abide by the Generally Accepted Principles of Education as adopted by the

Real Estate Educators Association and the commission as the standard for classroom performance and comply with the KREC Guidelines for Classroom Management.

(4) The commission education director shall submit the information to the commission for approval or rejection of the course at their regularly scheduled meeting.

(5) A course and instructor that have been previously approved within the calendar year may be conducted by another provider, upon the submission of a short form application and approval by the commission staff.

(6) A provider shall:
   (a) At least thirty (30) days prior to the scheduling of a continuing education course, submit to the commission a completed Continuing Education Schedule that identifies the course provider, course title and number, instructor, date, time, and location of each class;
   (b) Give to each attendee listed on the roster a completed Continuing Education Completion Certificate;
   (c) Within ten (10) days of a continuing education course, submit to the commission:
      1. A completed Continuing Education Attendance Roster, which shall include the full legal name, residence address, and other identifying information required by the commission, in alphabetical order;
      2. Continuing Education Course Evaluation completed by each attendee listed on the roster; and
      3. A completed CE Course Evaluation Transmittal Form;
   (d) Permit monitoring of the courses and inspection of the records by the commission; and
   (e) Make the course available to all licensed agents, subject only to space limitations.

(7) The providers' approval to conduct continuing education courses may be withdrawn by the commission for:
   (a) A violation of the classroom management guidelines;
   (b) Falsification of attendance information submitted to the commission;
   (c) Allowing an instructor to solicit business or sell materials to students in the classroom;
   (d) Failure to provide the commission the required materials in accordance with this administrative regulation; or;
   (e) Conducting courses that were not approved prior to being offered.

Section 5. Instructor Requirements.

(1) A course instructor shall:
   (a) Have adequate education, knowledge and experience in the topic to be presented;
   (b) Have prior teaching experience; and
   (c) Be an "approved instructor" under the requirements established in 201 KAR 11:175.

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

(3) An instructor of an approved real estate course shall receive credit toward his or her continuing education requirements. The instructor's supervisor shall provide the commission with a written notice requesting teaching credit, to include the instructor's name, name of course, dates the course was conducted and be signed by the approved school or institution's authorized representative.

Section 6. Out-Of-State Continuing Education Requirements.

A licensee who attends continuing education in another state may receive approval for continuing education courses completed in another state provided:

(1) The regulatory jurisdiction where the continuing education course is held accepts courses held in Kentucky for continuing education credit in the jurisdiction;

(2) The real estate regulatory agency of the state where the course is held approved the course for real estate continuing education credit;

(3) The course shall be taken and completed during the calendar year for which continuing education credit is sought in Kentucky;

(4) The course enables the licensee to better understand the real estate brokerage business and meets the content criteria prescribed by the commission;

(5) The licensee submits proof of completion of the out-of-state course to the Kentucky Real Estate Commission through a Course Completion Certificate issued by the provider, and an Out-of-State Continuing Education Compliance Form. The documentation shall provide the:
   (a) Name and residence address of the licensee seeking continuing education credit and other identifying information as required by the commission;
   (b) Name and date of the course for which credit is sought;
   (c) Course number if one exists;
   (d) Number of hours completed for which credit is sought;
   (e) Continuing education provider's name;
   (f) A signature from a representative of the continuing education provider documenting the licensee's course attendance.
   (g) Regulatory jurisdiction where the course is approved for continuing education credit; and
   (h) An outline of the course for which continuing education credit is sought if the outline is specifically requested by the commission.

(6) The completion documentation certificate and other forms shall be provided to the commission for review within fourteen (14) days of the licensee's receipt of the certificate from the approved education provider.

(7) If after review of the materials submitted, the commission determines the course does not merit continuing education credit, the commission may deny continuing education credit for the course. The commission shall notify the licensee of this denial and a brief explanation of the reasons for denial.

Section 7. Compliance and Delinquency.

(1) The time requirements established in this administrative regulation may be extended by the commission if:
   (a) A true hardship or other good cause clearly warrants relief; and
   (b) The request for extension and any required documentation, is received in writing on or before February 15 of the calendar year immediately following the year in which continuing education requirements were not fulfilled.

(2) If a licensee fails to comply with the provisions of this administrative regulation, the executive director or his representative shall notify the licensee as soon as practical on or after January 15 of the next calendar year of the failure to comply. If the licensee fulfilled the continuing education requirements in the previous year, proof of completion shall be forwarded to the commission on or before February 15.

(3) A license shall not be cancelled for non-fulfillment of the continuing education requirements if the licensee takes one of the following steps by February 15:
   (a) Places his license in escrow; or
   (b) Agrees in writing to a delinquency plan, which includes completion of the delinquent continuing education requirements for the previous calendar year on or before June 15; and
   (c) Submits a $500 fine which shall be assessed against each licensee who fails to complete the continuing education requirements outlined in KRS 324.085(1) by the end of the calendar year.

(4) A licensee who places his license in escrow under the provisions of this section shall not reactivate his license unless he has:

(a) First completed the core course or the current year's mandatory continuing education requirements as outlined in Section 2(2) of this regulation; and
(b) Paid the fees required by KRS 324.287 and under this administrative regulation.

(5) A licensee who fails to place his license in escrow or file the delinquency plan on or before February 15 immediately following the year in which continuing education requirements were not fulfilled, shall have his license cancelled as of that date and shall not be eligible to renew.

(6) If a licensee fails to complete the requirements of the delinquency plan:
(a) The commission shall notify the licensee of the deficiency on or after July 1;
(b) The deficiency notice shall advise that the licensee may request a hearing for the commission to consider whether the license should be suspended for noncompliance with the delinquency plan;
(c) Failure to request a hearing shall result in a default order of suspension; and
(d) Any suspension ordered by the commission for noncompliance with the continuing education delinquency plan shall be for a period of six months.

(7) If the commission suspends the license as a result of a default order or after hearing, the licensee shall not be allowed to activate his license unless, within ninety (90) days of the expiration of the suspension, the licensee;
(a) First completes the current year's continuing education requirements;
(b) Submits the required documents to reinstate the license; and
(c) Pays all necessary renewal and transfer fees as required by KRS 324.287.

(8) 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 meet the requirements for initial licensure, including retaking the examination.

Section 8. Records Maintenance.

(1) Each continuing education provider shall maintain the following records in a file for two (2) years following the end of each calendar year:
(a) A copy of the roster submitted to the commission of licensees attending the course;
(b) A copy of the Course Evaluation Transmittal form;
(c) The sign in sheet or registration list used by the provider to track attendance; and
(d) Any other documentation regarding student attendance.

(2) Records containing licensee information shall be destroyed by the provider.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:
(a) "Continuing Education Provider Application", 09/07 edition;
(b) "Course Outline", 09/07 edition;
(c) "Real Estate Instructor Application", 09/07 edition;
(d) "Continuing Education Schedule", 09/07 edition;
(e) "Continuing Education Attendance Roster", 09/07 edition;
(f) "CE Course Evaluation Transmittal Form", 09/07 edition;
(g) "Continuing Education Course Evaluation", 09/07 edition;
(h) "Kentucky Continuing Education Completion Certificate", 09/07 edition;
(i) "Continuing Education Short Form Application", 09/07 edition;
(j) "KREC Guidelines for Classroom Management", 09/07 edition;
(k) "Generally Accepted Principles of Education", as adopted by the Real Estate Educators Association and the Kentucky Real Estate Commission, 09/07 edition;
(l) "Kentucky Core Course Provider Application", 09/07 edition;
(m) "Kentucky Real Estate Commission Out-of-State Continuing Education Compliance Form", 09/07 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

Below is an emergency regulation and is effective immediately in order to provide guidelines for course development and approval, and provider approval prior to the implementation of KRS 324.085. This emergency regulation will be replaced with an ordinary administrative regulation.

201 KAR 11:235E Post-license education requirements

RELATES TO: KRS 324.010, 324.046, 324.090, 324.160

Section 1. Definition.

(1) "Broker-affiliated Training Program" means one (1) or more post-license education course(s) offered for post-license educational credit provided or sponsored by a licensed real estate principal broker.

(2) "Initial Sales Associate License" means the original Kentucky sales associate license issued by the Commission.

Section 2. Post-license Education Course Provider Requirements.

(1) A post-license education course shall be sponsored by:
(a) An accredited institution;
(b) A school that has been licensed by the Kentucky Real Estate Commission on Proprietary Education.
(c) An appropriate governmental regulatory body;
(d) An approved real estate school as defined in KRS 324.010(7); or
(e) An approved broker-affiliated training program.

(2) To apply for approval of a post-license education course, a provider shall submit:
(a) A completed Provider Application – Form E101, which shall:
1. Include a Course Outline – Form E105, broken into fifteen (15) minute increments, to include learning objectives for the course, teaching methods, auxiliary aids, materials, and the policies of the provider; and
2. Be signed by the sponsor's administrator to indicate compliance with applicable law and the requirements of this administrative regulation;
(b) A completed Education Course Application – Form E102;
(c) A copy of the license from the Kentucky Commission on Proprietary Education, unless the provider is an accredited college or university; an appropriate governmental regulatory body; an approved real estate school as defined in KRS 324.010(b) or an approved broker-affiliated training program;
(d) A completed Instructor Application – Form E100 for each instructor who will teach the course, as required by 201 KAR 11:175; and
(e) A copy of all advertising or brochures advertising the post-license education course.

(3) The course provider shall agree that all instructors shall abide by the Generally Accepted Principles of Education – Form E104 as adopted by the Real Estate Educators Association and the commission as the standard for classroom performance, and comply with the KREC Guidelines for Classroom Management – Form E103.

(4) The commission education director shall submit the information to the commission for approval or rejection of the course at its regularly scheduled meeting.

(5) A course and instructor that has been previously approved within the calendar year may be sponsored by another provider, upon the submission of an Education Course Application – Form E102 and approval by the commission staff.

(6) A provider shall:

(a) At least thirty (30) days prior to the scheduling of a post-license education course, submit to the commission an Education Schedule – Form E106;
(b) Give each attendee who completes the course an Education Completion Certificate – Form E110;
(c) Within ten (10) days of conclusion of a post-license education course, submit to the commission a completed:
1. Roster that lists all attendees that completed the course;
2. Course Evaluation – Form E108 completed by each attendee listed on the roster; and
3. Course Evaluation Transmittal – Form E109;
(d) Permit unannounced monitoring of the courses and inspection of the records by the commission; and
(e) Make the course available to all licensed agents, subject only to space limitations.

(7) A provider's approval to conduct post-license education courses may be withdrawn by the commission for:
(a) A violation of the KREC Guidelines for Classroom Management – Form E103;
(b) Falsification of attendance information submitted to the commission;
(c) Allowing an instructor to solicit business or sell materials to students in the classroom;
(d) Failure to provide the commission the required materials in accordance with this administrative regulation; or
(e) Conducting courses that were not approved prior to being offered.

Section 3. Instructor Requirements.

(1) A post-license education course shall be taught by an instructor approved under the requirements established in 201 KAR 11:175 and subject to the requirements in 201 KAR 11:460.

(2) A licensee who teaches an approved post-license education course shall be entitled to continuing education credit on an hour-for-hour basis. To obtain continuing education credit, the instructor shall be included on the Roster that lists all attendees that completed the course that is provided to the Commission. However, the instructor shall not receive credit more than once in a calendar year for each specific course taught.

Section 4. Post-license Education Course Criteria and Requirements.

(1) One (1) hour of post-license education shall be allowed for each fifty (50) minutes of actual instruction.

(2) Post-license Education shall consist of thirty (30) hours from the courses specified in paragraphs (a) and (b) of this subsection and eighteen (18) hours as specified in paragraph (c) of this subsection:
(a) The three (3) hour Commission Licensee Compliance course;
(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 & Data Security; and
(c) Eighteen (18) hours in elective topics chosen by the licensee from the electives listed in the Post-license Topics – Form E113.

(3) A licensee shall not receive post-license education credit for a duplicate course.

(4) No more than nine (9) hours of post-license education may be taken in a twenty-four (24) hour period.

(5) Post-license education courses shall meet the following standards:
(a) Consist of topics that are real estate specific, provide practical knowledge of the brokerage business and protect the public interest;
(b) Course objectives and assessments shall be practicum based to allow application of knowledge from pre-license education to practical real estate brokerage scenarios; and
(c) A course that is motivational or considered to be personal development in nature shall not be approved.

(6) All course approvals shall expire on December 31 of each calendar year.

(7) All primary or secondary providers wishing to offer online or other distance education courses shall be approved in accordance with the provisions set forth in 201 KAR 11:240. The commission shall review the content of courses to ensure that it meets the requirements outlined in this administrative regulation and in 201 KAR 11:240.

Section 5. Compliance and delinquency.

(1) The time requirements established in this administrative regulation may be extended by the commission for good cause shown. A licensee's request for an extension of time for good cause shown shall be submitted to the commission within the two (2) year timeframe set forth in KRS 324.085.

(2) If a licensee fails to provide proof of completion of the post-license education requirements within the allotted timeframe set forth in KRS 324.085, then the licensee's license shall be automatically canceled.

(3) A canceled license shall not be reactivated until the licensee has completed all of his or her post-license education requirements, complied with all Commission orders, and all other applicable licensing requirements.

Section 6. Records Maintenance.

(1) Each post-license education provider shall maintain the following records in a file for three (3) years following the end of each calendar year:
(a) A copy of the roster submitted to the commission of licensees attending the course;
(b) A copy of the Course Evaluation Transmittal – Form E109;
(c) The sign-in sheet or registration list used by the provider to track attendance; and
(d) Any other documentation regarding student attendance.

(2) Records containing licensee information shall be destroyed by the provider.

Section 7**.** Incorporation by Reference.

(1) The following material is incorporated by reference:
(a) "Instructor Application – Form E100", 05/15 edition;
(b) "Provider Application – Form E101", 05/15 edition;
(c) "Education Course Application – Form E102", 05/15 edition;
(d) "KREC Guidelines for Classroom Management – Form E103", 05/15 edition;
(e) "Generally Accepted Principles of Education – Form E104", as adopted by the Real Estate Educators Association", 05/15 edition;
(f) "Course Outline – Form E105", 05/15 edition;
(g) "Education Schedule – Form E106", 05/15 edition;
(h) "Course Evaluation – Form E108", 05/15 edition;
(i) "Course Evaluation Transmittal – Form E109", 05/15 edition;
(j) "Education Completion Certificate – Form E110", 05/15 edition; and
(k) "Post-License Prescribed Topics – Form E113", 05/15 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

Below is an emergency regulation and is effective immediately in order to allow sufficient time for course development and approval prior to the implementation of KRS 324.085. This emergency regulation will be replaced with an ordinary administrative regulation.

201 KAR 11:240E Distance education requirements

RELATES TO: KRS 324.046(5), 324.085(1), (2), 324.281(7)

Section 1. Definitions.

(1) "Continuing education course" means a course approved pursuant to the requirements set forth in KRS 324.085(1) and 201 KAR 11:230.

(2) "Distance education course" means a continuing or post-license education course or a pre-license course that is taught in a setting where the teacher and the student are in separate locations and that uses instructional methods that include internet-based training, computer-based training (CBT), satellite transmission or teleconferencing.

(3) "Post-license education course" means a course that satisfies the forty-eight (48) hours of education that is required within two (2) years of receiving or activating an initial sales associate license.

(4) "Pre-license course" means a course that satisfies an education requirement to obtain a real estate sales associate's or broker's license, generally consisting of forty-eight (48) fifty (50) minute hours or more.

Section 2. Distance Education Standards for Approval.

(1) (a) The design and format of all continuing education, post-license education and pre-license courses offered through means of distance education shall satisfy the requirements of this administrative regulation and guidelines of the commission.

(b) Continuing education, post-license education and pre-license courses conducted for academic credit in an accredited college or university via interactive television shall be exempt from this requirement, but shall satisfy the requirements established in Section 5 of this administrative regulation.

(2) A course shall be offered only in the delivery format in which it was approved.

(3) (a) An instructor for a distance education course shall be approved by the commission pursuant to the requirements set out in 201 KAR 11:175.

(b) Each course shall have an approved instructor available to answer questions from students.

(c) The individual applying for approval as an instructor shall complete the course before submitting the application to the commission for its approval and shall submit evidence of course completion with the application.

(4) (a) The commission shall require approval of the course content as established in 201 KAR 11:170, 201 KAR 11:230, and 201 KAR 11:235.

(b) The content of the course shall be in a topic specifically related to real estate.

(c) License law or regulations from other states and general skills computer classes shall not satisfy this course-content requirement.

(5) (a) The provider shall be approved by the commission and meet all other requirements for education as outlined in the KRS Chapter 324 and its administrative regulations.

(b) A course shall be open to all licensees.

Section 3. Distance Education Course Requirements.

(1) A distance education course shall provide mastery of the material and be developed in accordance with the following guidelines:

(a) The material shall be divided into learning units, modules, or chapters;

(b) Each unit shall contain learning objectives that are comprehensive enough to ensure that the course will likely be mastered by the student upon completion of the material;

(c) The course shall provide a structured learning method designed to enable students to attain each objective;

(d) The course shall provide a means to assess the student's performance on a regular basis during each unit of instruction and before proceeding to the next unit; and

(e) Provide a method for tracking length of time a student spends on the course. A student shall not be able to bypass the course materials and advance directly to the end-of-module quizzes or exercises that are included to assess the student's performance;

(f) Security shall be provided to ensure that the student receiving credit is the one who actually completes the course;

(g) 1. For a continuing and post-license education course, the student shall pass a final exam with a score of at least seventy-five (75) percent that shall be included as the last module of the course, in order to receive credit.

2. No more than two (2) retakes of the final examination shall be allowed.

3. Each course shall have an item bank from which the final examination questions shall be pulled.

4. 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.

5. The final examination shall have a minimum of five (5) questions for each approved hour of education.

(h) 1. A pre-license distance education course shall contain a monitored final examination arranged for the student by the instructor for the course.

2. The final examination shall cover both the content area covered by the course and the applicable real estate laws and regulations that apply to those content areas.

3. Each course shall have an item bank from which the final examination questions shall be pulled.

4. 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 have some unique new questions.

5. A forty-eight (48) hour course shall contain a minimum of:

a. Fifty (50) items; and

b. A ninety-six (96) hour course shall contain at least 100 questions.

6. No more than two (2) retakes of the exam shall be allowed;

(i) 1. A pre-license final examination shall 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.

2. The monitor may be:

a. A certified librarian;

b. A public school administrator;

c. College professor;

d. Other approved real estate instructor who may be associated with the school that offers the course; or

e. A monitor from a qualified online test monitoring service.

3. The monitor shall sign a statement that he or she is not affiliated with the student in any way.

4. The monitor shall:

a. Verify that the person taking the examination is the person registered for the course;

b. Observe the student taking the exam;

c. Assure that the student does not use aids of any kind;

d. Assure that a calculator is nonprogrammable;

e. Assure that any time limitations on the final examination are not exceeded;
f. Certify to the provider that all requirements for the final examination have been met;
g. Submit to the provider, a signed and notarized statement to that effect; and
h. Assure that any student's mobile device, cell phone, or camera is shut down and put away, while at the test site.

(j) 1. Each student shall complete an affidavit that certifies that he or she has personally completed all components of the course and the final exam with no assistance from persons other than the instructor.
2. The certification shall include the date of completion and the student's signature, which may be provided electronically.
3. Credit may be denied and disciplinary action taken if it is determined that a licensee received assistance on a distance education course or the final exam.
4. a. To obtain credit for a distance education course, a licensee shall complete the course within the time frame allotted by the school for pre-license courses or within the calendar year for continuing and post-license education, unless the licensee is completing the course to comply with a continuing education delinquency plan as outlined in 201 KAR 11:230, or to comply with an order of the commission.
b. The completion date for all courses shall be the date the student completes the final examination with a passing score of at least seventy-five (75) percent, and submits the evaluation and the student affidavit.

Section 4. Distance Education Provider Requirements.

(1) (a) A provider shall submit the appropriate application for approval and the Distance Education Checklist and Information Sheets – Form E114.
(b) The application shall include:
1. A complete copy of the program on the medium that is to be used;
2. All hardware or software required to review the material;
3. A link to the internet site;
4. A copy of the final examination question bank and key for each course; and
5. A copy of any student materials.
(c) The application and other required documents shall be submitted at least sixty (60) days prior to the commission's meeting date, to allow adequate time for review.

(2) The provider shall have reasonable oversight of a student's work in order to ensure that the student completing the work is the one who is enrolled in the course.

(3) (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) The provider shall ensure that the approved instructor has knowledge of both the content and the technology required to complete the program.
(c) A student shall not be required to call more than one person to obtain answers to questions about the course.

(4) (a) The provider shall include a complete description of the hardware and software or other technology required by the student in order to complete the course.
(b) The provider shall include an explanation of the safeguards against loss of data resulting from inadvertent hardware or software failure.

(5) 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.

(6) (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.
(c) Attendance rosters for each approved continuing and post-license education course shall be submitted on a semi-monthly basis and shall include:
1. Provider's name;
2. Course name and number assigned by the commission;
3. Total enrollment for the month;
4. Licensee's full legal name;
5. Residence address;
6. Identifying information; and
7. The date of completion for each student, so that compliance with various deadlines can be verified.
(d) A completion certificate shall be issued to the student upon completion of the course, submission of the evaluation, signing of the affidavit and passing the final exam.

(7) (a) For a pre-licensure course, a provider shall issue a completion certificate to the student. The document shall contain:
1. The provider's name;
2 Course name;
3. Number of hours earned;
4. Beginning and completion date for the course;
5. Student's full legal name; and
6. Residence address.
(b) This document shall be submitted with the student's license application.

Section 5. Interactive Television Requirements. A course offered for academic credit via interactive television in an accredited college or university shall require the following:

(1) There shall be two (2) way audio and video connections between the instructor and the student;
(2) College personnel shall be stationed at each remote site to handle technology problems that may arise and to monitor attendance of students during the class; and
(3) The program shall be one that has been properly approved by the college accrediting body as fulfilling the requirements for academic credit.

Section 6. Incorporation by Reference.

(1) "Distance Education Checklist and Information Sheets – Form E114", 06/15 edition, Kentucky Real Estate Commission, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 11:245. Property management procedures and guidelines

RELATES TO: KRS 324.160(4)(f), (h)

Section 1.

(1) A licensee shall not engage in property management without a current written property management agreement.
(2) A property management agreement shall contain:
(a) The business name and address of the licensed agent's company;
(b) The name and address of the owner;
(c) The address of the real estate being managed and the number of units;

(d) The date when the agreement begins and ends, and a provision stating whether the owner agrees or not 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 licensee;
(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 licensee's escrow account is kept where the security deposit will be held together with 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 licensee is authorized to pay expenses related to the real estate being managed;
(k) A statement setting forth the date when the licensee shall send the owner an accounting of the transactions related to the real estate being managed;
(l) A copy of the form of the lease document which the licensee shall have the tenant sign shall be attached to the agreement;
(m) A provision whereby the owner certifies that he has received a duplicate copy of the agreement and the attached lease form; and
(n) The signature and date of signature of the owner and the licensee.

Section 2.
(1) An owner ledger, in electronic or written form, shall be maintained for each owner of real estate being managed.
(2) A tenant ledger, in electronic or written form, shall be maintained for each tenant renting real estate being managed.
(3) (a) A receipt shall be given for money received.
(b) Money received shall be deposited into an escrow or management account of the licensee without unreasonable delay. Licensees who have an ownership in the real estate being managed shall comply with the requirements of KRS 383.580.
(c) The amount of money received shall be entered into the owner and tenant ledgers, by unit.
(4) Expenses paid by an agent shall be documented by invoice or receipt, by unit. Documentation shall be retained with a licensee's records.
(5) Adjustments to a security deposit shall be made in accordance with KRS 383.580. Adjustments shall also be entered on the owner and tenant ledgers, by unit.
(6) A licensee shall send a monthly accounting to an owner of transactions:
(a) Related to the real estate being managed, by unit; and
(b) Entered on the owner and tenant ledgers, by unit.
(7) Within sixty (60) days of the termination of a management agreement, a licensee shall send the owner a final accounting. The final accounting shall contain transactions that occurred after the last monthly accounting.
(8) A licensee who owns the real estate being managed shall:
(a) Comply with the accounting requirements relating to receipt, deposit and adjustment of tenant security deposits; and
(b) Be exempt from the other accounting requirement specified in this administrative regulation.

Section 3. A broker shall retain property management agreements, leases, monthly statements, owner and tenant ledgers, and bank statements relating to property management for five (5) years.

Section 4. A tenant security deposit shall be deposited and maintained in an escrow account in compliance with KRS 324.111. A licensee who has an ownership in the real estate being managed shall comply with the requirements of KRS 383.580.

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

RELATES TO: KRS 324.160(4)(v), (w), 324.281(5)

Section 1. Listing contracts shall include the:
(1) Listing price of the property, unless the sale is to be by auction;
(2) Date and time of the signing of the listing contract for all parties who sign;
(3) Date and time of expiration of the listing contract;
(4) Fee or compensation agreed upon;
(5) Street, address or location of the real estate listed for sale;
(6) Signatures of all owners;
(7) Special directions of the owner concerning limitations on showings and sub agency restrictions; and
(8) Date and time for initialing of all changes on the contract.

Section 2. An offer to purchase or a counteroffer prepared by or at the direction of a licensed agent shall include the:
(1) Purchase price, the amount of contract deposit given and who is to hold the deposit;
(2) Date and time of signing of the offer or counteroffer for all parties who sign;
(3) Date and time when the offer or counteroffer expires;
(4) Street, address or a general description of the real estate sufficient to identify the parcel;
(5) Names of the offering party and the agent who prepared the offer or counteroffer; and
(6) Provision setting forth the date by which the closing shall occur and when possession shall be given to the buyer.

Section 3.
(1) 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 indicate in writing that the offer is contingent upon the nonperformance of the existing executory contract by inserting the following provision in the offer: "This offer is submitted as a back-up offer, which means the property is subject to a previously-accepted offer which has priority over this offer."
(2) The provision required in subsection (1) of this section shall be:
(a) Inserted by the licensee who prepares the offer to purchase, if he is aware of the existing contract; and
(b) Made by the listing licensee as a counteroffer.

Section 4. Contracts to contain financing provisions. A contract providing for the purchase of property shall specifically state:
(1) The manner in which the purchase shall be financed; and
(2) The amount of any encumbrance and whether it is to be underwritten by the seller or a commercial institution or otherwise.

Section 5. Any agreement for compensation from a licensee to his or her client or customer shall be in writing. If a licensee fails to comply with the requirement in this section, the licensee's conduct shall be considered improper and in violation of KRS 324.160(4)(u).

Section 6. Negotiating a subsequent listing agreement with another broker.
(1) Prior to the expiration of an original listing agreement;
(a) Another real estate broker, or sales associate of the broker, shall not contact the seller to obtain a subsequent listing agreement; and
(b) The seller may contact another real estate broker to obtain a subsequent listing agreement.
(2) Another broker, or sales associate of the broker, may enter into a subsequent listing agreement with the seller, if:
(a) The seller initiated contact with the licensee to discuss a new listing agreement;
(b) The new listing agreement will take effect upon the expiration of the current listing agreement; and
(c) The commission's Seller-Initiate Re-Listing Request Disclosure Form is properly completed and signed by the seller and licensee. The form shall provide:
1. The seller's affirmation that the seller initiated contact with the licensee to discuss a new listing agreement;

2. The date on which the seller contacted the licensee to discuss a new listing agreement; and
3. The signatures of the seller and the licensee, including the date and time that the seller and licensee signed the form.

(3) If a licensee fails to comply with the requirements in this section, the licensee's conduct and dealings will be considered improper and in violation of KRS 324.160(4)

Section 7. Incorporation by Reference.

(1) "Seller-Initiated Re-Listing Request Disclosure Form", July 2009, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

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

RELATES TO: KRS 324.281(5), 324.282

Section 1. Facsimile Transmissions.

(1) A licensee may use facsimile (FAX) devices to transmit and receive documents according to the provisions of this administrative regulation.

(2) A copy of a document transmitted by FAX device shall be immediately mailed by regular mail, postage prepaid and properly addressed, to the person to whom the FAX transmission is transmitted.

(3) A document received by FAX device shall be immediately placed in the licensee's file as required under 201 KAR 11:062.

Section 2. If a licensee complies with Section 1 of this administrative regulation, the time of delivery of a document transmitted by FAX device, and a document required to be submitted under 201 KAR 11:045, shall be the time of transmission by FAX device.

Section 3. Electronic-mail Transmissions.

(1) A licensee may use electronic mail to transmit and receive documents according to the provisions of this administrative regulation.

(2) A copy of a document received by electronic mail shall be immediately mailed by regular mail, postage prepaid, and properly addressed to any participating licensee who requests a copy of the document. A document received by electronic mail shall be immediately placed in the licensee's file as required under 201 KAR 11:062.

Section 4. If a licensee uses electronic mail to transmit and receive documents, in accordance with section 3 of this administrative regulation, the time of delivery of the electronically-mailed document shall be the time that it is sent from the originator's electronic-mail system.

201 KAR 11:350. SELLER'S DISCLOSURE OF PROPERTY CONDITIONS FORM

RELATES TO: KRS 324.360

Section 1. The "Seller Disclosure of Property Condition" form established in Section 2 of this administrative regulation shall be completed and signed as required by KRS 324.360 by a seller of residential real estate.

Section 2. "The Seller Disclosure of Property Condition" form shall be in the following format:

SELLER DISCLOSURE OF PROPERTY CONDITION

The information in this form is based upon the undersigned's observation and knowledge about the property during the period beginning on the date of his or her purchase of it on:

_____ and ending on _____

(date of purchase) (date of this form)

PROPERTY ADDRESS: _____

This form applies to sales and purchases of residential real estate. This form is not required for:

1. Residential purchases of new homes if a warranty is offered;
2. Sales of real estate at auction; or
3. A court supervised foreclosure.

PURPOSE OF STATEMENT: Completion of this form shall satisfy the requirements of KRS 324.360 which mandates the seller's disclosure of information about the property he is about to sell. This disclosure is based solely on the seller's observation and knowledge of the property's condition and the improvements thereon. This statement shall not be a warranty by the seller or seller's agent and shall not be intended as a substitute for an inspection or warranty the purchaser may wish to obtain. This is a statement of the conditions and information concerning the property known by the seller. Unless otherwise advised, the seller does not possess any expertise in construction, architectural, engineering, or any other specific areas related to the construction or condition of the improvements on the property. Other than having lived at or owning the property, the seller possesses no greater knowledge than that which could be obtained upon a careful inspection of the property by the potential buyer. Unless otherwise advised, the seller has not conducted any inspection of generally-inaccessible areas such as the foundation or roof. It is not a warranty of any kind by the seller or by any agent representing any seller in this transaction. It is not a substitute for any inspections. Purchaser is encouraged to obtain his or her own professional inspections.

INSTRUCTIONS TO THE SELLER: (1) Complete all numbered items. (2) Report all known conditions affecting the property. (3) Attach additional pages, if necessary, with your signature and the date and time of signing. (4) Complete this form yourself or sign the authorization at the end of this form to authorize the licensee to complete this form on your behalf in accordance with KRS 324.360(9). (5) If some items do not apply to your property, write "not applicable." (6) If you do not know the answer to a question, write "unknown."

SELLER'S DISCLOSURE: As seller, I/we disclose the following information regarding the property. This information is true and accurate to the best of my/our knowledge as of the date signed. Seller authorizes the agent to provide a copy of this statement to a person or entity in connection with actual or anticipated sale of the property or as otherwise provided by law. The following are not the representations of the agent.

Please answer all questions. If the answer is yes, please explain. If additional space is needed, use the reverse side or make attachments.

1. **HOUSE SYSTEMS**	**YES**	**NO**	**UNKNOWN**
Any past or current problems affecting:			
(a) Plumbing	___	___	___
(b) Electrical system	___	___	___
(c) Appliances.....	___	___	___

(d) Floors and walls…… ___ ___ ___
(e) Doors and windows ……. ___ ___ ___
(f) Ceiling and attic fans ……. ___ ___ ___
(g) Security system ……. ___ ___ ___
(h) Sump pump ……. ___ ___ ___
(i) Chimneys, fireplaces, inserts …….. ___ ___ ___
(j) Pool, hot tubs, sauna ……. ___ ___ ___
(k) Sprinkler system…….. ___ ___ ___
(l) Heating…….age_____…….. ___ ___ ___
(m) Cooling/air conditioning……..age_____…….. ___ ___ ___
Explain:_____
_____

2. FOUNDATION/STRUCTURE/BASEMENT

(a) Any defects or problems, current or past, to the foundation or slab? …… ___ ___ ___
(b) Any defects or problems, current or past, to the structure or exterior veneer?…….. ___ ___ ___
Explain: _____
_____
(c) Has the basement leaked at anytime since you have owned or lived in the property? ___ ___ ___
(d) When was the last time the basement leaked?_____
(e) Have you ever had any repairs done to the basement?…… ___ ___ ___
(f) If you have had repairs done to the basement relative to leaking,
when was the repair performed?_____ ___ ___ ___
Explain:_____
_____
(g) If the basement presently leaks, how often does it leak? (e.g., every time it
rains, only after an extremely heavy rain, etc.) _____
(h) Have you experienced, or are you aware of, any water or drainage problems with
regard to the crawl space?……. ___ ___ ___

3. ROOF

(a) Age of the roof ?_____
(b) 1. Has the roof leaked at any time since you have owned or lived in the property? ___ ___ ___
2. When was the last time the roof leaked?_____
(c) 1. Have you ever had any repairs done to the roof? ……. ___ ___ ___
2. If you have ever had the roof repaired, when was the repair performed?_____
(d) 1. Have you ever had the roof replaced?…… ___ ___ ___
2. If you have had the roof replaced, when was the replacement performed?_____
(e) If the roof presently leaks, how often does it leak? (e.g., every time it
rains, only after an extremely heavy rain, etc.)_____
(f) 1. Have you ever had roof repairs that involved placing shingles on the roof instead
of replacing the entire roof? ___ ___ ___
2. If you have ever had roof repairs that involved placing shingles on the roof
instead of replacing the entire roof, when was the repair performed?_____

4. LAND/DRAINAGE

(a) Any soil stability problems?…… ___ ___ ___
(b) Has the property ever had a drainage, flooding, or grading problem?……... ___ ___ ___
(c) Is the property in a flood plain zone?…….. ___ ___ ___
(d) Is there a retention/detention basin, pond, lake, creek, spring, or
water shed on or adjoining this property? …….. ___ ___ ___
Explain:_____

5. BOUNDARIES

(a) Have you ever had a staked or pinned survey of the property?…….. ___ ___ ___
(b) Do you know the boundaries?……. ___ ___ ___
(c) Are the boundaries marked in any way?…….. ___ ___ ___
(d) Are there any encroachments or unrecorded easements relating to the property of
which you are aware? …….…….. ___ ___ ___
Explain:_____
_____

6. WATER

(a) 1. Source of water supply _____
2. Are you aware of below normal water supply or water pressure? ……. ___ ___ ___
(b) Is there a water purification system or softener remaining with the house?…….. ___ ___ ___
(c) Has your water ever been tested? If yes, give results ___ ___ ___
Explain: _____

7. SEWER SYSTEM

(a) Property is serviced by:
1. Category I. Public Municipal Treatment Facility;…… ___ ___ ___
2. Category II. Private Treatment Facility;…… ___ ___ ___
3. Category III. Subdivision Package Plant;……. ___ ___ ___
4. Category IV. Single Home Aerobic Treatment System (AKA: “Home Package Plant”) ___ ___ ___

5. Category V. Septic Tank with drain field, lagoon, wetland, or other onsite dispersal; ___ ___ ___
6. Category VI. Septic Tank with dispersal to an offsite, multi-property cluster treatment system;…… ___ ___ ___
7. Category VII. No Treatment/Unknown……. ___ ___ ___

(b) For properties with Category IV, V, or VI systems:
Date of last inspection (sewer): _____
Date of last inspection (septic): _____ Date last cleaned (septic): _____

(c) Are you aware of any problems with the sewer system?..... ___ ___ ___
Explain:_____

8. CONSTRUCTION/REMODELING

(a) Have there been any additions, structural modifications, or other alterations made?..... ___ ___ ___
(b) Were all necessary permits and government approvals obtained?…….. ___ ___ ___
Explain:_____

9. HOMEOWNER'S ASSOCIATION

(a) 1. Is the property subject to rules or regulations of a homeowner's association?……. ___ ___ ___
2. If yes, what is the yearly assessment? $ _____
(b) Are you aware of any condition which may result in an increase in taxes or assessments?…….. ___ ___ ___
(c) Are any features of the property shared in common with adjoining landowners, such as walls, fences, driveways, etc.?…… ___ ___ ___
Explain: _____
_____

10. MISCELLANEOUS

(a) Was this house built before 1978? ..…….…….. ___ ___ ___
(b) Are you aware of any use of ureaformaldehyde, asbestos materials, or lead based paint in or on this home?…….…….. ___ ___ ___
(c) 1. Are you aware of any testing for radon gas?…….…….…… ___ ___ ___
2. Results, if tested _____
(d) Are you aware of any underground storage tanks, old septic tanks, field lines, cisterns or abandoned wells on the property?…… ___ ___ ___
(e) Are you aware of any present or past wood infestation (i.e. termites, bores, carpenter ants, fungi, etc.)?…….. . ___ ___ ___
(f) Are you aware of any damage due to wood infestation?……. ___ ___ ___
(g) 1. Have the house or other improvements ever been treated for wood infestation? ___ ___ ___
2. If yes, when, by whom, and any warranties? _____
_____
(h) Are you aware of any existing or threatened legal action affecting this property?..... ___ ___ ___
(i) Are there any assessments other than property assessments that apply to this property (i.e. sewer assessments)?……..……. ___ ___ ___
(j) Are you aware of any violations of local, state, or federal laws, codes, or ordinances relating to this property?…….. ___ ___ ___
(k) Are you aware of any other conditions which are defective with regard to this property?……..……. ___ ___ ___
(l) Are there any environmental hazards known to seller?…….. ___ ___ ___
(m) Are there any warranties to be passed on?…….. ___ ___ ___
(n) Has this house ever been damaged by fire or other disaster (i.e., tornado, hail, etc.)?
If yes, please explain: _____ ___ ___ ___
(o) Are you aware of the existence of mold or other fungi in the property?..... ___ ___ ___
(p) Has this house ever had pets living in it? …… ___ ___ ___
If yes, Explain _____
(q) Is the property in a historic district?..... ___ ___ ___

SPACE FOR ADDITIONAL INFORMATION

_____
_____

The seller has owned this property since _____ (date) and makes these representations only since that date. Seller agrees to immediately notify Buyer of any changes which may become known to seller prior to closing.

_____ _____
Seller Date Seller Date

****

THE LICENSEE NAMED HERE (_____) HAS BEEN REQUESTED BY THE OWNER TO COMPLETE THIS FORM AND HAS DONE SO. I HEREBY AGREE TO HOLD HARMLESS THE NAMED LICENSEE FOR ANY REPRESENTATION THAT APPEAR ON THIS FORM IN ACCORDANCE WITH KRS 324.360(9).

Seller: _____ Date_____

THE SELLER REFUSES TO COMPLETE THIS FORM AND ACKNOWLEDGES THAT THE AGENT SHALL SO INFORM THE BUYER.

Seller: _____ Seller: _____
Date: _____ Date: _____

THE SELLER HAS REFUSED TO COMPLETE THIS FORM AND HAS REFUSED TO ACKNOWLEDGE HIS FAILURE TO COMPLETE THE FORM

Broker/Agent: _____ Date: _____

THE BUYER ACKNOWLEDGES RECEIPT OF THIS FORM.

_____ _____

Buyer Date Buyer Date

THE SELLER MAY DISCLOSE ADDITIONAL INFORMATION NOT REQUESTED OF THIS FORM AND MAY RESPOND TO ADDITIONAL INQUIRIES OF THE BUYER.

Section 3.

(1) In addition to the information specified in Section 2 of this administrative regulation, the seller's disclosure of property conditions form set out in it shall also include the following additional information:
   (a) The property address, which shall appear at the top of each page of the form; and
   (b) The initials of all parties who sign the form, including the date and time for the initialing, all of which shall appear at the bottom of each page of the form.

(2) If the property that is the subject of the seller disclosure of property form is listed, the listing agent shall solicit the initials of all property owners-sellers and the date and time for the initialing at the time he or she executes any listing agreement or similar agreement by which a licensee intends to market the property.

(3) If the property that is the subject of the seller disclosure of property condition form is not listed, any licensee involved in the transaction shall solicit:
   (a) The initials of all property owners-sellers and the date and time for the initialing; and
   (b) The initials of all prospective buyers and the date and time for initialing.

201 KAR 11:400. Agency disclosure requirements

RELATES TO: KRS 324.160(4)(e), (n)

Section 1. Definitions.

(1) "Business relationship" means any arrangement whereby a licensee and a party have or had a mutual financial ongoing interest in any company, corporation, or other income-producing venture, including any prior representation by the licensee for the party's purchase or sale of real estate, but does not include the current real estate transaction.

(2) "Commercial transaction" means a transaction other than the sale of a single-family residential property, multifamily property containing four (4) units or less, single-family residential lot, or agricultural property.

(3) "Confidential information" means information that would materially compromise the negotiating position of a party or prospective party to a real estate transaction if disclosed to the other party.

(4) "Contact" means discussion or correspondence between a licensee and an identified prospective party involving the licensee's services related to a mutually-contemplated real estate transaction.

(5) "Delivery" means delivery of an item to a party or prospective party by:
   (a) Mail;
   (b) Facsimile transmission;
   (c) Electronic mail;
   (d) Messenger; or
   (e) Hand.

(6) "Family relationship" means any known familial relationship between a licensee and party regardless of distance of the relationship.

(7) "Party" means one represented by a real estate licensee;

(8) "Personal relationship" means a platonic or nonplatonic friendship between a licensee and a party.

(9) "Prospective party" means a person who:
   (a) Has contact with a licensee; and
   (b) Has not entered into a brokerage agreement with a licensee relative to the contemplated transaction.

Section 2. The provisions of this administrative regulation shall not apply to a:

(1) Sale of real estate at auction;

(2) Property management of real estate; or

(3) Commercial transaction.

Section 3. Prospective Party Information.

(1) A licensee shall complete either the "Consumer Guide To Agency Relationships (For Companies That Allow Only Dual Agency {No Designated Agency} - Model Policy)" or the "Consumer Guide To Agency Relationships (For Companies That Allow Designated Agency & Dual Agency - Model Policy)", whichever is applicable, and deliver it to the appropriate prospective party prior to:
   (a) Receiving confidential information from a prospective party relative to a mutually-contemplated real estate transaction;
   (b) Entering a representation agreement or submitting an offer to, or on behalf of, a prospective party; and
   (c) The conclusion of the second contact between the licensee and a prospective party.

(2) The commission's Consumer Guide to Agency Relationships Model Policies and the Agency Disclosure Statements shall provide:
   (a) Relationships available between the licensee and prospective party in Kentucky;
   (b) The specific relationship proposed between the licensee and prospective party;
   (c) The name of the licensee completing the form, the name of the principal broker of the licensee, and the name of the licensee's real estate company;
   (d) The name of the prospective party; and
   (e) The signature and date of signing by the prospective party.

(3) (a) The commission's "Consumer Guide to Agency Relationships" model policies may be revised by a broker to include the broker's company-specific information, including logos, and any other revisions which shall constitute a change or changes in the form of either or both model policies.
   (b) Model policies that have been properly revised by a broker may be completed and delivered by the broker to a prospective party as substitutes for the commission-required model policies, to satisfy the requirements set out in Section 3 of this administrative regulation.
   (c) A licensee shall solicit the signature of a consumer on the appropriate consumer guide as an acknowledgement by the consumer of his or her receipt of it and as evidence of the licensee's compliance with this provision.

(4) (a) An "Agency Disclosure Statement" that has been developed by the broker or sales associate shall be submitted to the commission for its prior approval.
   (b) The general counsel of the commission shall:
      1. Review the form;
      2. Make a recommendation to the commission that the form be approved or disapproved; and
      3. Inform the broker or sales associate of the commission's decision.

(5) The agency disclosure statements shall be given to the consumer and signed at the time a buyer is making an offer and at the time a seller is reviewing that offer.
   (a) A licensee shall complete Section I of the Agency Disclosure Statement if the real estate transaction involves agents from two (2) different companies. In such transactions, the licensee shall provide on the appropriate lines the licensee's name and the name of the real estate brokerage company along with the name of the principal broker for that company. The licensee shall then present the appropriate Agency Disclosure Statement to the buyer or seller, whichever applies, for that person's signed consent, which shall be provided in the "Consent" section, appearing at the bottom of the Agency Disclosure Statement.
   (b) A licensee shall complete Section II of the Agency Disclosure Statement if the real estate transaction involves two (2) agents in the same real estate brokerage company. In such transactions, the licensee shall designate whether the transaction involves designated agency or dual agency by checking the appropriate box.
      1. If the real estate transaction involves designated agency, the licensee shall complete Section II, providing on the appropriate line the name of the agent representing the buyer and the name of the agent representing the seller. The licensee shall also provide on the appropriate line the name of the real estate brokerage company whose principal broker and manager or managers shall be the dual agents in the designated-agency transaction. The licensee shall then present the appropriate Agency Disclosure Statement to the buyer and seller for their signatures, which shall be provided in the "Consent" section, appearing at the bottom of the Agency Disclosure Statement.
      2. If the real estate transaction involves dual agency, the licensee shall complete Section II, providing on the appropriate line the name of both agents involved in the transaction. If an agent has any business, family, or personal relationship with the other party, then the agent shall explain the nature of the relationship or relationships in the space provided for that information. The licensee shall then present the appropriate Agency Disclosure Statement to the buyer and seller for their signatures, which shall be provided in the "Consent" section, appearing at the bottom of the Agency Disclosure Statement.
   (c) If the real estate transaction involves only one (1) agent, the licensee shall complete Section III, providing on the appropriate lines the licensee's name and the name of the real estate brokerage company involved in the transaction.
      1. If the agent will be representing both the buyer and the seller in the transaction, the licensee shall acknowledge that by marking the first box in Section III, which states that the agent will be a dual agent. If the agent has any business, family, or personal relationship with either the buyer or seller in the transaction, then the agent shall explain the nature of the relationship or relationships in the space provided at the end of the information presented for the first box in Section III. The licensee shall then present the appropriate Agency Disclosure Statement to the buyer and seller for their signatures, which shall be provided in the "Consent" section, appearing at the bottom of the Agency Disclosure Statement.
      2. If the agent will be representing only one (1) of the parties or none of the parties in the real estate transaction, then the licensee shall acknowledge that by marking the second box in Section III and only one (1) of the boxes that follow it, identifying which party, if any, the agent will be representing in the transaction. The second box in Section III shall be checked if a real estate transaction involves a "for sale by owner" seller, an unrepresented buyer, or a transaction brokerage situation. The licensee shall present the appropriate Agency Disclosure Statement to the buyer and seller for their signatures, which shall be provided in the "Consent" section, appearing at the bottom of the Agency Disclosure Statement.

Section 4. Incorporation By Reference.
(1) The following material is incorporated by reference:
   (a) "Consumer Guide To Agency Relationships (For Companies That Allow Only Dual Agency - Model Policy)", March 2006;
   (b) "Consumer Guide To Agency Relationships (For Companies That Allow Designated Agency & Dual Agency - Model Policy)", March 2006;
   (c) "Agency Disclosure Statement - Buyer", March 2006; and
   (d) "Agency Disclosure Statement - Seller", March 2006.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 11:410. Broker duties pursuant to designated agency

RELATES TO: KRS 324.121, 324.160(3)
Section 1. Definitions.
(1) "Confidential information" means information that:
   (a) Is provided to a designated agent by a seller or prospective buyer of real estate;
   (b) Describes or affects the provider's negotiation, bargaining position or motivation;
   (c) Is not required by law; and
   (d) Will not constitute fraud or a dishonest dealing, if not disclosed.
(2) "Designated agent" means a person designated pursuant to KRS 324.121(1).

Section 2. A principal broker who appoints a designated agent shall:
(1) Require that all documents that contain confidential information relating to a client;
   (a) Be kept in an individual file maintained by the principal broker and accessed only by the principal broker or the designated agent appointed by the principal broker to represent the individual; and
   (b) Not be accessible to another licensee except as required by KRS 324.160(3);
(2) Implement a system to maintain confidential information. The system shall:
   (a) 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) Prohibit discussions between a designated agent and client concerning confidential information of the client within the office unless the conversation occurs in an environment which allows appropriate privacy;

(c) Prohibit the disclosure of confidential information by office personnel and clerical staff; and
(d) 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;

(3) Require a licensee to disqualify himself from being appointed as a designated agent for a party if the agent has received confidential information concerning the other party to the transaction.

201 KAR 11:420. Standards for internet advertising

RELATES TO: KRS 324.117(6)

Section 1. A real estate company's Internet home page shall include the following information:

(1) The company's full, nonabbreviated name as recorded with the Kentucky Real Estate Commission or the name of the real estate company's principal broker;
(2) A statement indicating the principal broker is a Kentucky licensed real estate broker if the principal office location is outside of Kentucky; and
(3) A street address and phone number for the company's principal office.

Section 2. A real estate Internet real property advertisement of a licensee, or offer or solicitation to provide brokerage services by a licensee, related to marketing or identifying real property for sale or lease shall include the name of the principal broker of the company with whom the licensee is affiliated pursuant to KRS 324.010(6) and 324.010(14) or the name of the real estate company with which the licensee's license is held.

Section 3. A nonprincipal broker real estate licensee's Internet home page shall include:

(1) The licensee's name;
(2) The principal broker with whom the licensee is affiliated or the name of the real estate company recorded with the Kentucky Real Estate Commission with which the licensee's license is held;
(3) A statement indicating the licensee holds a Kentucky license to broker real estate if the licensee's principal business location is outside Kentucky;
(4) The regulatory jurisdiction of the licensee's principal business address; and
(5) A street address and phone number for the licensee's principal business location.

201 KAR 11:430. Procedure for criminal records background check: disciplinary action against licensees for acts committed before or during the application process

RELATES TO: KRS 324.045, 324.990, 28 CFR 16.30 to 16.33

Section 1. Prior to taking a licensure examination, an applicant shall request a copy of the applicant's identification record.

(1) The applicant may request a copy of his or her identification record from the Federal Bureau of Investigation pursuant to the provisions of 28 CFR 16.30 to 16.33 or from any other commission-approved criminal background-checking provider or company furnishing identification records that are comparable to those provided by the Federal Bureau of Investigation, as determined by the commission.
(2) An applicant seeking licensure through a reciprocal agreement shall request the Federal Bureau of Investigation identification record, or the identification record of a commission-approved alternate provider, prior to applying for licensure with the Kentucky Real Estate Commission.

Section 2.

(1) Upon receipt of the identification record of the Federal Bureau of Investigation, or a commission-approved alternate provider, the applicant shall:
    (a) Submit the original identification record to the Real Estate Commission within five (5) days of the applicant's receipt of it if the identification record reveals:
        1. Any felony conviction regardless of when the conviction occurred; or
        2. A misdemeanor conviction within the five (5) years previous to the applicant's receipt of the identification record;
    (b) Submit the identification record to the Real Estate Commission at the time of application if it does not indicate:
        1. A felony conviction at any time; or
        2. A misdemeanor conviction within the previous five (5) years.
(2) If the Real Estate Commission receives an identification record which reveals a felony conviction, or a misdemeanor conviction within the previous five (5) years, the Real Estate Commission shall investigate the conviction and may, at its discretion, investigate any charges that are revealed by the identification record or any other evidence of dishonesty, untruthfulness, or bad reputation of the applicant.
(3) Following the completion of the investigation, the Real Estate Commission shall review the investigation report and shall:
    (a) Order the applicant to appear before the commission for a hearing pursuant to KRS 324.045 and Chapter 13B; or
    (b) Allow the applicant to proceed with the licensure application without a hearing if the Real Estate Commission determines the conviction does not necessitate a hearing pursuant to KRS 324.045.
(4) (a) If a hearing is ordered under subsection (3)(a) of this section, the applicant shall appear before the Real Estate Commission or the Real Estate Commission's authorized representative pursuant to KRS Chapter 13B.

    (b) The hearing shall determine whether the applicant meets the standards of KRS 324.045 and shall consider:
        1. The nature of the crime;
        2. Whether the crime indicates the applicant's untrustworthiness or incompetence in a manner that threatens the public interest;
        3. Any evidence of honesty, truthfulness, and good reputation of the applicant;
        4. Evidence of rehabilitation by the applicant since the crime;
        5. Whether the applicant has received written confirmation from a principal broker willing to accept the applicant as an associate upon licensure;
        6. Whether the applicant is currently under probation, parole, or other state supervision or reporting requirements as a condition of any criminal sentence; and
        7. Other information relevant to the applicant's fitness to broker real estate.
(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) (a) 1. Following the hearing, the Real Estate Commission shall either approve or deny the application and notify the applicant of its decision along with a

brief, written explanation of the reasons for its decision.

2. The applicant may proceed with the licensure application if the Real Estate Commission states in its order that the applicant may proceed with the licensure application.
3. The Real Estate Commission's order shall provide an expiration date by which the applicant shall take the licensure examination.
4. 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.

(b) If the Real Estate Commission's order indicates the applicant may proceed with the licensure application, the applicant shall submit a copy of the order to the Real Estate Commission with the licensure application.

(c) Failure to produce the order shall constitute grounds to deny the licensure application.

(d) The application of an applicant who is, at the time of filing, under probation, parole, or other state supervision or reporting requirements ordered by any court of the commonwealth may be denied by the commission, at its discretion. If the commission denies an application based upon one or more of these grounds, the applicant may reapply for licensure after the period of probation, parole, or other state supervision or reporting requirements has ended.

(7) An issued license shall be revoked if, while an applicant, the licensee:

(a) Received an identification report indicating a felony conviction, or a misdemeanor conviction in the previous five (5) years and the applicant did not submit the report to the Real Estate Commission for investigation as required by subsection (1)(a) of this section;

(b) Failed to request the report as required by this section; or

(c) Failed to submit the identification report with the application for licensure, as required by subsection (1)(b) of this section.

(8) If an applicant has engaged in any unlicensed brokerage activity within this commonwealth, the applicant shall, prior to the issuance of any license by the commission, disgorge all fees earned or received by him or her as a result of the unlicensed brokerage activity.

201 KAR 11:440. Personal assistant duties

RELATES TO: KRS 324.010(4), 324.030(6)

Section 1. A nonlicensed personal assistant, office worker, or clerical worker shall not:

(1) Negotiate terms of a real estate transaction or real estate brokerage agreement;

(2) Complete offers or contracts relative to a real estate transaction;

(3) Disclose information that is available to a real estate licensee but is not available to the general public;

(4) Attend a real estate closing except to assist a licensee present at the closing;

(5) Access information which requires membership in an industry trade group if the supervising licensee is not a member of the industry trade group;

(6) Write or place advertisements without review by a licensee;

(7) Express material opinions on any aspect of a real estate transaction to anyone other than the supervising licensee;

(8) Interpret real estate contractual terminology for others;

(9) Represent to others that he has a real estate license; or

(10) Perform any activity which requires a real estate license.

Section 2. A nonlicensed personal assistant, office worker, or clerical worker may perform the following tasks:

(1) Distribute literature, serve refreshments, greet guests, and procure guest signatures on a sign-in book at an open-house, without a supervising licensee present at the open house if:

(a) The seller or lessor provides written consent for the assistant to serve in this capacity; and

(b) The supervising licensee directs the assistant to serve in this capacity;

(2) Provide the following general public information to others pursuant to KRS 324.030(6):

(a) Whether real estate is listed with the real estate company;

(b) Whether real estate is under contract with the company;

(c) Whether a real estate transaction has closed;

(d) The listing price of the real estate;

(e) Other information about the real estate if:

1. The information is provided in writing;
2. Disclosure is approved by the supervising licensee; and
3. Disclosure does not violate the licensee's fiduciary duties to his client;

(3) Appear in advertisements and have his or her name appear in advertisements if the advertisement does not indicate or imply the assistant has a real estate license;

(4) Contact others to set appointments on behalf of the supervising licensee;

(5) Receive confidential information from a consumer relative to a real estate transaction if the information is communicated only to the supervising licensee;

(6) Copy a key related to a real estate transaction at the direction of the supervising licensee; or

(7) Unlock real estate for any purpose relative to the real estate transaction if:

(a) The supervising licensee receives the consent of the owner or lessor;

(b) The assistant answers no questions about the real estate other than as specifically allowed by this administrative regulation or statute; and

(c) The assistant does not show the real estate to a consumer.

Section 3. Supervision of a nonlicensed personal assistant, office worker, or clerical worker shall require:

(1) A principal broker to assign supervision duties for each assistant to at least one (1) licensee, which may be the principal broker, of the company;

(2) The principal broker to require all assistants working for a licensee of the company to be informed of the requirements of this administrative regulation and the provisions of KRS 324.030;

(3) A principal broker to establish a policy by which a supervising licensee provides training for assistants in a manner reasonably adequate to ensure compliance with this administrative regulation;

(4) A supervising licensee to provide reasonable supervision of assistants in a manner which shall ensure compliance with this administrative regulation; and

(5) A supervising licensee to be reasonably accessible to assistants in a manner which allows the assistant to contact and locate the licensee concerning pending transactions.

201 KAR 11:450. Broker management course

RELATES TO: KRS 324.046(1)(a)

Section 1. An applicant for a broker's license shall first attend a three (3) academic credit hour brokerage management skills course as part of his or her twelve (12) hours of broker prelicense education real estate courses pursuant to KRS 324.046(1)(a).

Section 2. The brokerage management skills course shall:

(1) Satisfy three (3) hours of the applicant's twelve (12) hours of real estate courses required to become a broker;

(2) Be a three (3) academic hour comprehensive review of all the skills necessary to run a brokerage office in accordance with:
   (a) KRS Chapter 324;
   (b) 201 KAR Chapter 11;
   (c) Common law and federal law relating to real estate; and
   (d) The standards of practice for a real estate broker pertaining to adequate supervision of all sales associates affiliated with the broker;

(3) Require each student successfully completing the course to develop a sample business plan, a sample financial plan and an office policy and procedure manual; and

(4) Require submission of the projects listed in subsection (3) of this section within one (1) year of completion of the coursework;

(5) (a) Require each successful student to take a comprehensive, closed-book examination consisting of at least seventy-five (75) multiple choice questions and to pass the test with a minimum score of seventy-five (75) percent.
   (b) One (1) retake of the examination shall be permitted.
   (c) The examination shall be submitted to the commission for approval prior to use in the course.
   (d) The commission shall review each proposed examination for content to ensure that each course topic is covered and tested.
   (e) If certain areas are lacking, the commission shall issue recommendations as to how to improve the examination and shall allow the school thirty (30) days to resubmit the examination for approval.

(6) Require schools and instructors to take appropriate steps to maintain the confidentiality of the final examinations at all times. These steps shall include:
   (a) Maintaining 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 answer sheets; and
   (c) Monitoring the students at all times when examinations are being conducted.

Section 3. Instructors.

(1) An instructor teaching this course shall have at least three (3) years of previous experience within the past five (5) years as a Kentucky approved instructor of prelicense courses.

(2) Each instructor shall attend a commission-approved training program specifically designed for this course prior to teaching the course for the first time.

(3) All approved prelicense schools shall be notified when a training program has been scheduled, and it shall be the school's responsibility to notify any instructors that wish to attend the training program.

(4) Upon completion of the training course, the instructor's request for approval shall be submitted to the commission for approval, along with the course materials.

(5) The commission shall notify the provider and instructor of its decision in writing.

(6) In order to retain approval to teach this course, an instructor shall attend all subsequent training programs that the commission deems necessary based upon changes in license laws and administrative regulations.

Section 4. Course Approval.

(1) To obtain approval for the course, the school shall submit a course syllabus which outlines the requirements for the course and other attachments, specifically:
   (a) The time period over which the course will be conducted and a sample schedule of how course will be offered;
   (b) The course description and objectives;
   (c) The attendance and participation requirements;
   (d) When projects shall be due;
   (e) When the final examination shall be conducted;
   (f) The grading scale;
   (g) The textbooks being used and how material will be taught in conjunction with completion of the projects, the final exam;
   (h) The name and contact information for each instructor who will teach the course, subject to completion of the required instructor training program;
   (i) A copy of the final examination bank and answer key; and
   (j) A copy of the mandated curriculum.

(2) Course approval may be withdrawn by the commission if the instructor fails:
   (a) To follow the prescribed outline;
   (b) To require the students to develop a sample business and financial plan or a sample office policy and procedure manual;
   (c) To require the students to take and pass a comprehensive examination and obtain a seventy-five (75) percent pass rate; or
   (d) To attend training programs required by the commission.

(3) Any school whose course approval has been withdrawn may apply to the commission for an opportunity to be heard. The commission shall make a decision as to reinstatement of course approval.

Section 5. Monitoring.

(1) A school shall permit monitoring by the commission or its authorized representative.

(2) (a) A school shall submit, sample copies of projects submitted by students and graded by the instructor as an evaluation of the course.
   (b) If the instruction or content of the projects is deficient, so as to impair the value of the course, a notice of deficiency shall be issued to the school.
   (c) The school shall be given an opportunity to correct the deficiency within thirty (30) days.

Section 6. Incorporation by Reference.

(1) "Brokerage Management Curriculum", 09/07 edition is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville Kentucky 40223, Monday through Friday.

201 KAR 11:460 Minimum rating requirements for instructors

RELATES TO: KRS 324.085

Section 1. All approved continuing education instructors shall:

(1) Be approved by the Kentucky Real Estate Commission and be in compliance with the provisions of 201 KAR 11:175.

(2) Enforce the Guidelines for Classroom Management as developed by the Commission as part of the continuing education program.

(3) Comply with the Generally Accepted Principles of Education (GAPE) developed by the Real Estate Educators Association and adopted by the Kentucky Real Estate Commission as the standard for classroom presentation and incorporated by reference in 201 KAR 11:450.

Section 2. Evaluation of Instructors

(1) Each continuing education provider shall distribute a continuing education instructor evaluation form to each student and collect a continuing education evaluation form from each student at the end of the course.

(2) Within ten days of course conclusion, the course provider shall deliver all continuing education instructor evaluation forms to the commission education director.
(3) If a course provider fails to submit all forms completed by students and provided to the course provider, the commission may suspend the course provider's approval.
(4) All continuing education evaluation forms shall be reviewed by the commission.
(5) The commission education director shall review the course approval percentage rating for each instructor;
(6) An eighty-five (85)% approval rating is required in the categories of "instructor knowledge" and "instructor presentation".
(7) The comments section of the continuing education evaluation forms will be reviewed for other remarks concerning the instructor's performance.
(8) After a second rating lower than eighty-five (85)%, the commission will notify the instructor and the course provider of the deficiency.
(9) The next class taught by the instructor shall be monitored by a commission representative. The commission monitor shall submit a recommendation to the commission as to whether the instructor should be allowed to continue to teach courses.
(10) Based on the recommendation of the monitor, the evaluation score and the comments from the third class, a recommendation will be made to the commission to:
    (a) Take no further action;
    (b) To suspend the approval of the instructor; or
    (c) To place the instructor on probation pending the evaluation and review of a future class.
(11) In the event the commission issues a probationary order the commission shall outline the length and terms of the probationary period as well as the date of the class to be monitored.
(12) At the conclusion of the probationary period, the commission education director shall recommend to the commission whether the instructor's approval shall continue.
(13) The commission shall consider the education director's recommendations and determine whether the instructor's approval shall continue or be removed.
(14) The commission shall notify the instructor and the school of its decision in writing.
(15) If probation has ended satisfactorily, the instructor's approval shall be reinstated.
(16) 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.
(17) In any class with ten (10) or fewer participants for which the instructor receives at least one (1) evaluation below eighty-five (85)%, the commission shall not consider the highest and lowest course approval percentage rating in order to ensure greater accuracy in the rating.
(18) The annual recertification of instructors and continuing education courses shall include an in-depth review of the evaluations completed by the students and those of any monitor that may have been present for the class.
(19) (a) Any instructor who has been suspended from teaching continuing education courses may apply for reinstatement by:
        1. Submitting an application for approval to the commission;
        2. If the deficiency is in presentation, the instructor must attend an instructor development workshop approved by the commission upon request;
        3. If the deficiency is in the subject matter, the instructor must attend a prescribed number of credit hours in that subject approved by the commission upon request;
        4. Submitting proof of attendance at the required course;
        5. Providing written documentation of other steps taken to improve the instructor's knowledge and skills; and
    (b) After submission of the above documents and consideration by the commission, the commission shall approve or deny the instructor's request for reinstatement in its discretion.

Section 3. Incorporation by Reference.
(1) The following material is incorporated by reference:
    (a) Guidelines for Classroom Management, October 2001;
    (b) Continuing Education Instructor Evaluation Form, October 2001.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, KY 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

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;

(2) "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 thrid 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; 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.

381.9203 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 no 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.

. . .