

Kentucky Real Estate Law Review

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This is a summary of many of Kentucky's real estate license laws.
The author is not an attorney and is not providing legal advice.
Specific law questions should be directed to an attorney.

Visit the Kentucky Real Estate Commission's website
for the law manual and additional contracts and forms.

www.krec.ky.gov

<http://krec.ky.gov/legal/Pages/formscontracts.aspx>

<http://krec.ky.gov/legal/Pages/kreclm.aspx>

The forms found on the KREC website
should be reviewed by your principal broker before you use them.

For a review of the
Legislative Research Commission's Official Statutes and Regulations,
please refer to their website at <http://www.lrc.state.ky.us/home.htm>.


**We highly recommend that you read
the laws and administrative regulations in their entirety.**

Information Regarding the Kentucky Real Estate Sales and Broker Exams

The **state portion** of the Kentucky real estate examination consists of **40 questions** for both the salesperson and broker examinations **plus ten (10) pretest questions**. These pretest items are NOT identified on the examination and will NOT affect the score in any way.

The state laws are **Kentucky Revised Statutes** and they are identified as **KRS Chapter 324. (i.e. KRS 324.160)**

The **Kentucky Administrative Regulations** are the **interpretations of the Statutes that made by the Kentucky Real Estate Commission** and real estate licensees must obey these administrative regulations. They are identified with the initials **KAR**. (i.e. 201 KAR 11.011)

	<p style="text-align: center;">Please note. You do NOT have to know the law numbers for the state exam. If a number is used in a question or answer, it will be the correct number.</p>
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All other use is prohibited.

The acronym KREC means the
Kentucky Real Estate Commission in the book.

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About the KY Real Estate Commission

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

1. Who appoints the Commissioners? **Governor**
2. How many Commissioners are there? **5**
3. How many hold a real estate license? **4**
4. What type of license must he/she have?
A real estate license. It does not have to be a broker's license.
5. How long must he/she have been residents of the state immediately prior to their appointment? **10 years**
6. How many Commissioners are appointed as a "citizen-at-large"? **1**
7. How long is the term of a Commissioner? **4**
8. How many terms can a Commissioner have? **2 consecutive**
9. Where does the Governor get the list of people to select an appointment of a Commissioner?
Kentucky Association of REALTORS
10. How many Commissioners can belong to the same political party? **3**

Commission Duties

1. Promulgate (announce) **administrative** regulations
2. Hold **disciplinary** hearings
3. Conduct **examinations** or contract to conduct examinations
4. Conduct educational **seminars** and CE class
5. **Investigate** or cause to be investigated any irregularities of the law
6. To participate with other organizations for the **improvement** of the laws.
7. Any action taken by the Commission can be **appealed**.

324.2811 Automatic removal of member from Commission

1. A licensed Commissioner **ceases to have** his/her license.
2. Consumer member **acquires** a license or a financial interest in the practice of real estate.
3. Commissioner enters a plea of guilt or been found guilty of a felony in which **fraud** is an essential element or a crime of moral turpitude.
4. Member is no longer a bona fide **resident** of the Commonwealth.

324.282 Election of chairperson – Rules and regulations

1. Who selects the chairperson of the Commission?
The Commissioners select the chairperson.
2. Can the Commission fix prices; establish fees or sets rates at which real estate licensees are compensated? _____ Yes **X** **No**
3. How much are the Commissioners paid annually?
\$15,000 per annum and actual and necessary expenses
4. The Commission has a **seal** to authenticate its proceedings. **ALL** records are open to public inspection, as prescribed by the Commission.

The KREC usually meets every month and part of the meeting is open to the public.
A schedule can be found on the home page at www.krec.ky.gov.

About Your Real Estate License

324.010 Definitions and application

1. Real estate brokerage is a single, multiple, or continuing act of dealing in real estate **for others**. It is any work relating to real estate owned by someone else this includes referral, listing, selling, property management or offering to engage in those activities for others for money or anything of value.
2. **Real estate** means real estate in its ordinary meaning and includes timeshares, options, leasehold and other interests less than leaseholds.
3. Property management means the management of real estate **for others** for a fee compensation, or other valuable consideration.

4. Property management activities includes:
- a. **marketing** property;
 - b. **leasing** property;
 - c. collecting **rental** payments;
 - d. **payment** of any debts such as notes, mortgages and business expenses;
 - e. planning and implementing **maintenance of** the property;
 - f. **accounting** of money and sending statements to the owner;
 - g. any other activities that the KREC deems as a property management activity.

324.020 Requirement of licensing

Unless a person falls into an "exception" category, a person **MUST** have a real estate broker or sales associate license to present himself or herself to the public as a real estate broker or sales associate.

1. Can someone who does not have a real estate license hold himself or herself out to the public as a real estate broker or sales associate? ___Yes **X No**

A person cannot infer by the use of any terms, titles, or abbreviations which imply that that the person is licensed as a real estate broker or sales associate, **unless he/she** has a real estate license.

2. Does an licensee who is an owner or builder-developer have to disclose his status as a real estate licensee? **X Yes** ___No

3. What steps would the Commission take to file an injunctive relief?

Seek and obtain injunctive relief by filing a civil action in the circuit court where the Commission is located or the unlawful activity took place.

324.030 Exceptions to KRS 324.020

1. A person can **sell or lease** his/her own property without a license. (For Sale by Owner – FSBO) A person can hire an **employee to sell or lease** his/her own property and the **employee does not need a license.**

2. If an owner executes a **power-of-attorney** giving a person (**attorney-in-fact**) the authority to performance any contract for the sale, leasing, or exchange of real estate, the **attorney-in-fact does not need to have a license.**

3. An **attorney-at-law** who is performing **his/her duties as attorney-at-law does not need to have a real estate license.**

4. A receiver is appointed by a bankruptcy court or by creditors to administer the property for the purpose repayment of the debts. A trustee in bankruptcy is also appointed for that same purpose. A **receiver or trustee does not have to have a real estate license** to sell property as a part of the bankruptcy procedure.

An administrator is appointed by the court to settle an estate when someone dies testate, or without a will. When someone dies intestate, meaning there is a valid will, an executor is named in a will to settle the estate. An **administrator or executor does not need to have a real estate license to sell property in the estate.**

If a person is selling real estate under **order of any court**, he/she **does not need to have real estate license.**

A **trustee** acting under a trust agreement, a deed of trust, or their **regular salaried employees, do not need to have a real estate license.**

5. If a person is the **regular employee of an owner**, he/she can **engage in property management without a license.**

If the owner enters into a property management agreement with a **principal broker**, the principal broker **may hire** a person as a **regular employee** to manage the property and the person **would not need a license to manage the property.**

If a person receives a **rental unit as his primary compensation**, the person **does not need to have a license.**

6. A **nonlicensed personal assistant** who works under the supervision of a licensed real estate broker **may contact the public** to set appointments for the broker to meet with them regarding buying or selling property. The nonlicensed personal assistant may **give out general public information** specifically authorized by the broker **without securing a real estate license.**

324.2812 Limitation of Commission's Jurisdiction

1. Property management activities does NOT include **community association managers**, not-for-profits community associations. This includes townhouse, condominium homeowner associations, or neighborhood associations which are run by community association managers. The KREC has no jurisdiction over community association managers.

X True False

324.980 Persons to whom KRS Chapter 324 does not apply

A person who is in the business of **compiling information** regarding the **availability** of rental property and charges a potential tenant a **fee for the information**, does not need to have a real estate license.

324.990 Penalties for Unlicensed Real Estate Brokerage Activities

Unlicensed real estate brokerage activity is a Class A misdemeanor for the first offense and a Class D felony for any subsequent offenses.

Class A Misdemeanor.

A crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement, usually in the county jail.

Class D Felony.

A serious crime usually punishable by imprisonment for more than one year or by death.

1. What is the **maximum fine** that a circuit court may impose against any person who violate Kentucky real estate laws?

Fine of not less than \$100 nor more than \$1,000 and imprisonment for six months

2. If convicted by a circuit court, can the guilty party keep the real estate commission?

____ Yes No

3. Is each transaction regarded as a separate offense? Yes ____ No

Process for Securing a Real Estate License

324.040 Application for license as broker or sales associate

1. An applicant must state if he/she has **ever** had any broker's or sales associate's license revoked or suspended and provide a **resident and business address**.

2. The applicant will apply on **forms furnished by the KREC**. The forms will be given to you at the **testing center** when you pass your exam.

3. An applicant must have a **sponsoring broker** that agrees to hold your real estate license.

4. An applicant must be at least **18 years of age** and have a **high school diploma or its equivalent**. You will need to send this **to the KREC** with **your application package**.

324.045 Qualifications for license – Examination – Fee – Criminal record check

1. Every **applicant** for a Kentucky real estate license must disclose if the applicant has ever had a broker or sales associate's license revoked or suspended and must provide a business and resident address. **X** **True** _____ False
2. The applicant must apply on forms furnished by the Commission. **X** **True** _____ False
3. How old does someone have to be to apply for a real estate license? **At least 18 years of age**
4. Every applicant must have attained a **high school diploma** or its equivalent. A copy will need to be sent to the KREC when you pass your state exam.
4. If a license has been revoked, suspended or is allowed to expire without renewal for more than one year, the person would be required, at a minimum, to pass a test to get a real estate license. **X** **True** _____ False

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

1. When should an applicant request a criminal background check? **Prior to taking the license exam.**
2. If the criminal background check reveals a felony or a misdemeanor conviction within the previous 5 years, how many days does the applicant have to submit the background check to the Commission? **Within 5 days of the receipt of the background check**
3. If the criminal background check does **not** reveal a felony conviction or a misdemeanor conviction within the previous 5 years, when is the background check submitted to the Commission? **At the time of application**
4. What step must the Commission take when it receives a criminal background with a felony or misdemeanor conviction within the previous 5 years?

The Commission **will investigate**, order the applicant to appear before the Commission for a **hearing**; or after the investigation the Commission may determine that a hearing is not necessary and let the person apply for the license.

201 KAR 11:210

After you pass your real estate exam how many days do you have to secure your license?
60 days

324.046 Requirements for initial licensure

1. The educational requirements for a **broker** include:

Twenty-one (21) academic credit hours or the equivalent (336 clock hours)

Twelve (12) hours in real estate courses -**Three (3)** hours in broker management skills class

Been engaged in the real estate business as a sales association averages at least **20 hours per week for 24 months** prior to application.

Broker Management Course

201 KAR 11:450. Broker management course

An applicant for a broker's license is required to attend a **three academic credit hour** broker management skills course as a part of his or her **twelve** hours of broker pre-license real estate education.

A student will be required to develop a **sample business** plan; a **sample financial** plan; an office policy; and pass a closed-book examination with a score of at least **75** percent. The KREC must approve the course and the exam before it is given. **One** retake of the examination is permitted. If a student fails the second exam, the entire course must be retaken.

2. The educational requirements for a **sales associate** include:

Six (6) academic credit hours or their equivalent (96 clock hours); and proof of academic credit hours on an official **transcript from the school where classes were completed.**

3. For a real estate sales associate to secure a broker's license, his/her principal broker must sign a sworn notarized statement that the sales associate has worked at least 20 hours per week for the prior 24 months. **X True** _____False

4. The **applicant** may file a complaint with the Commission if the principal broker unjustly refuses to sign the statement.

5. If an applicant has an associate degree in real estate or a baccalaureate degree with a major or minor in real estate, the two year experience requirement **may be reduced** to one year.

X True _____False

6. A person who received a real estate license prior to June 19, 1976 is not subject to attending CE classes. X True _____ False

324.080 Form of license certificate – Delivery

The Commission will determine the design of the real estate license.

The license will be delivered or mailed to the principal broker with whom the licensee is affiliated. It will be kept on file in the office where the **licensee is active** in real estate.

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

1. A real estate license will **expire** on a date determined by the Commission. Currently the renewal date is **March 31**.

2. What is the **fine** if a real estate licensee fails to renew on time?

_____ \$100 X **not to exceed \$200** _____ not to exceed \$1,000

3. A real estate licensee did not receive his/her notice to renew the license. The Commission will give the licensee until April 30th to renew. _____ True X **False**

4. A licensee did not pay the renewal fee by March 31. What is the status of the license?
Expired.

5. A licensee did not pay the renewal fee by March 31. The expired license may be **reactivated** before a lapse of **one** year, if delinquent fees are paid by the licensee. If the license is **not reactivated within one year**, the license will be **cancelled**.

Status of a Real Estate License

1. **Active** – A real estate license is **held by a broker** and the person is **active** in the business of real estate. If the renewal fees are paid by March 31st of each year, the license can be reactivated without sitting through the classes and passing the test again.

2. **Inactive** – If the principal broker's license is **revoked or suspended**, **every licensee affiliated with the broker** will **automatically be rendered inactive**. **The licensees must** become affiliated with another **principal broker** and a new license must be issued. **IF** this occurs in the **original year of licensure**, there will be **no charge** for the new license.

3. **Expired** – A real estate license **expires on March 31** of each year. A **fine not to exceed \$200 may** be assessed for **failure to renew** by March 31st.

Renewal is now done online at www.KREC.ky.gov. There are no excuses such as "I didn't get a renewal notice." for not renewing by March 31st.

A license that is NOT renewed will revert to an **expired** status. An expired license **may be** reactivated before a lapse of 1 year, **IF delinquent fees are paid** by the licensee.

4. **Suspended** – Disciplinary Action – There is no time limit on the suspension of a license. A licensee **CANNOT** be active in the business if the license is suspended.

5. **Probation** – Disciplinary Action – A licensee may be placed on probation for **up to 1 year**. A licensee **can** be active in the business when his/her license is on probation.

6. **Cancelled** – If a licensee **fails to renew** a license by March 31 and does not reactivate the license within one year; or a licensee writes a **check to the KREC and the check is not honored**; or if the licensee **fails to re-affiliate** with a principal broker when the license is returned to the KREC; or if a licensee **fails to complete requirements** for continuing education; the license will be cancelled.

7. **Revoked** – Disciplinary Action – **Five (5) years** will be the first time a person can ask for to secure a real estate license. The KREC **does NOT** have to grant permission to the person to get another license.

8. **Escrow** – **Returning the license** to the Kentucky Real Estate Commission.

Placing a License in Escrow

The Principal Broker signs release on the back of the license and the Principal Broker delivers license to KREC.

The licensee instructs KREC (in writing) to place license in escrow.
(The form can be found at this link. <http://krec.ky.gov/Pages/forms.aspx>)

The license is held by the KREC and the licensee **may not** practice real estate for others or accept referral fees. The annual renewal fee must be paid when a license is in escrow.

Taking a License Out of Escrow

A written request must be submitted to the KREC by licensee.
(The form can be found at this link. <http://krec.ky.gov/Pages/forms.aspx>)

A person must meet requirements of active licensees. This includes attending the Core Course if not taken within the last 4 years. There must be a letter of acceptance from a principal broker; purchasing E&O insurance; attending Continuing Education classes for current year and paying the established change fee.

201 KAR 11:230 – Continuing Education

1. How many clock hours of CE is an **active licensee** required to take each year? **6 clock hours** and **3 hours** must be classified as a **law class**. (Ethics is not a law class.)

Grandfather Clause

The exemption to this law is that continuing education is NOT required for anyone licensed prior to June 19, 1976.

2. By what date must the CE be completed? **Dec. 31st**

3. When is an **active licensee** required to take the Core Course? **Every 4 years**

4. When is a NEW licensee required to take the Core Course?

This is determined by the birth month the new licensee.

January - February - March: Take the Core Course the **1st year** you have your license.

April - May - June: Take the Core Course the **2nd year** you have your license.

July - August - September: Take the Core Course the **3rd year** you have your license.

October - November - December: Take the Core Course the **4th year** you have your license.

After you are licensed, check the KREC database to see if it is your year to attend the Core Course. www.KREC.ky.gov **The database link is on the top navigation base.**

You may take the Core Course any year and it will complete your CE requirements for the year.

5. If a licensee takes more than 6 clock hours of CE in a calendar year, can the additional hours be carried forward to the next year? ____ Yes **X No**

6. Is a new licensee required to attend a CE class in his/her first year of licensure in Kentucky? ____ Yes **X No**

7. If a license is in escrow, is the licensee required to attend CE classes? ____Yes **X** **No**

8. What is the CE requirement to take a license out of escrow?

Completion of the current year's CE requirements and if the Core Course has not been taken in the last 4 years, it must be taken to meet the CE requirements.

9. A real estate licensee must take all CE classes in Kentucky. _____True **X** **False**

A licensee attending CE in another state must provide a course completion certificate and out-of-state CE compliance form within 14 days of attending the class.

<http://krec.ky.gov/Education%20Forms/602.pdf>

10. If there is a true hardship a licensee must request in writing an extension by what date?

On or BEFORE February 15

11. If a licensee did not complete CE requirements by December 31, what steps can he/she take to prevent a cancellation of his/her license by February 15?

a. Place his/her license in escrow, or

b. Agree in writing to a delinquency plan which must be completed on or before June 15; and

c. Pay a \$500 fine.

12. If a licensee is in escrow, what are the steps the licensee must take to activate his/her license?

a. Complete the Core Course or current year's CE requirements;

b. Pay the proper fees.

13. What is the status of a license when the licensee does not complete his/her CE in a timely manner; does not place his/her license in escrow; or does not files a delinquency plan on or before February 15? **Cancelled**

14. If a licensee agrees to the delinquency plan and then fails to fulfill the plan the Commission will send a notice to the licensee. What step must the licensee take to avoid suspension of his/her license? **Request a hearing**

15. If the Commission suspends the license as the result of a default order or after a hearing, the licensee cannot activate his/her license UNLESS within 90 days of the expiration he/she completes what actions?

- a. **Completes the current year's CE requirements;**
- b. **Submits the proper documents to be reinstated; and**
- c. **Pays the renewal and transfer fees.**

16. What is the status of the license if it is not reinstated within 90 days following the completion of the suspension period and what would the person need to do to get another real estate license?

The license is cancelled and the person would need to sit through the classes and pass the exam to get another license.

17. How long is a CE provider required to keep records? **2 years**

18. One hour of CE credit is given for **50** minutes of actual attendance.

19. CE classes may be in hourly increments from **one** to **six** hours.

324.150 Investigation of licensee Suspension or revocation of license

1. Who may investigate a licensee? **Commission or its staff**
2. When MUST the Commission investigate a complaint? **When a verified written complaint is received which contains prima facie evidence that a violation has occurred.**
3. Does the Commission have the right to issue subpoenas, administer oaths, review evidence and inspect documents of a principal broker? **Yes** **No**

324.151 Complaints – Answers

1. To file a complaint a person must use a form furnished by the Commission.

True **False**

prima facie.

At first sight; on the first appearance but subject to further evidence or information.

2. If the complaint does not constitute a prima facie case, how many days does the complainant have to revise and supplement the case? 5 days **10 days** 20 days

3. If the complainant does not supplement the case in the 10 days, can the Commission dismiss the matter without requiring the licensee to respond? **Yes** No

4. If the Commission decides to proceed with the case, where will the licensee be served?
Licensee's last known address

5. What steps must a licensee take to file an answer with the Commission?
To file an answer on forms furnished by the KREC and the answer must be notarized.

6. Once a complaint has been served, how many days does the licensee have to return his/her answer to the Commission? 10 days **20 days** 30 days

7. Is the complainant and the licensee required to furnish each other with copies of any further pleadings? **Yes** No

8. The Commission may conduct an emergency hearing if a licensee is alleged to have committed an escrow account violation. **True** False

324.170 Hearing to precede any disciplinary action

1. Before the Commission denies an application or orders any disciplinary action, there must be a **hearing** and if the applicant or licensee is a sales associate the principal broker will be notified at the **broker's last known business address**. **True** False

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

1. **Hearings** may be conducted by a **quorum** of the Commission or by a **hearing officer**, which is an attorney, appointed by the Commission.

2. A hearing officer may **not** order any disciplinary action against a licensee. The hearing officer collects the facts and submits a report and recommendations to the KREC. The Commissioners make the final decision.

3. How long does an aggrieved party have to file a complaint?
Two (2) years from actual knowledge or the time circumstances would reasonably have given the party notice.

4. What documents must a licensee include in the answer to the complaint?

- 1. Listing contract;
- 2. Purchase contract;
- 3. Seller's disclosure form;
- 4. Agency disclosure form; and
- 5. Settlement statement.

5. After reviewing the complaint, what are the two options that the Commission has in deciding what to do with the case?

- 1. Dismiss the case or
- 2. Schedule a hearing

6. Can the complaint be withdrawn? **Yes** No

7. How many days the aggrieved party have to withdraw the complaint?

10 days **20 days** 30 days

The hearing officer may consolidate cases if there are common questions of law or if there are identical issues and witnesses. If there is a reason to sever the consolidation, the hearing officer has the right to make that decision.

324.160 Grounds for suspension or revocation of license, issuance of reprimand, levying of fines or requiring further academic study

This is a very important section of the law!

1. What are the 6 disciplinary actions of the Commission?

- 1. License suspension
- 2. License revocation
- 3. Levy fines not to exceed \$1,000
- 4. License probation for up to 12 months
- 5. Sending a licensee to school
- 6. Issuing a formal or informal reprimand.

Cancelled License.

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 education. License cancellation is not a disciplinary action, but occurs when the licensee did not complete actions that should be taken to keep the license.

1. Can a person whose license has been **cancelled** engage in real estate activities?
 Yes **No**

2. When a person's license has been cancelled or suspended, what is the circumstance under which he/she could collect a commission?

If it was earned prior to the cancellation or suspension.

3. Can someone else take the real estate exam for you? Yes **No**

A person cannot obtain a license through any false or fraudulent representation.

misrepresentation.

A party makes a decision based on information which he/she thinks to be true, and it is not. Misrepresentation can be fraudulent (intentional) or innocent.

4. Is making a substantial misrepresentation, failing to disclose known defects or making false promises grounds for disciplinary action? **Yes** No

5. A real estate agent is purchasing a property listed by his/her broker. Where does the agent have to disclose that he/she is a licensed real estate agent?

In writing on the offer to purchase; sales contract

6. When does a real agent have to disclose his/her status as a real estate agent when he/she is becoming a party to a contract in a real estate transaction?

BEFORE becoming a party to the contract the status must be disclosed and it must be in writing on the sales contract.

7. A real estate agent is selling his/her own property. Does the disclosure that he/she is an agent have to be in writing? **Yes** No

8. Who is the only person that can be pay a real estate licensee for performing real estate services? **His or her principal broker**

9. Under what circumstance can a property manager accept a rebate from a service provider?
With knowledge and consent of the owner

10. Under what circumstance can a licensee represent a broker other than their principal broker? **With the knowledge and consent of the principal broker with whom he/she is affiliated.**

11. What are the duties of a licensee when receiving other people's money in a real estate transaction? **To remit all moneys to his/her client according to the contract of employment.**

12. Can a licensee pay a non-licensed individual a referral fee for the name of a buyer or seller?
 Yes **No**

Alford plea.

A guilty plea that a defendant enters as part of a plea bargain, without actually admitting guilt.

<http://www.newsobserver.com/1179/story/545259.html>

(If this link doesn't work do a Google search on Alford plea.)

13. Can a licensee lose his/her real estate license for being found guilty of or entering an Alford plea; or failing to report a conviction, plea of guilty or Alford plea to a felony or misdemeanor involving sexual misconduct? **Yes** No

14. Can a real estate licensee sell real property in a lottery? Yes **No**

principal.

A party in a contract; one who authorizes another to act on his or her behalf as an agent.

15. Does a real estate licensee have to disclose his/her status as a licensee in every real estate transaction in Kentucky? **Yes** No

16. Can a real estate licensee guarantee future profits on the resale of real property?
 Yes **No**

17. Is a real estate licensee allowed to solicit a listing, exchange or lease when there is an exclusive agency contract with another real estate broker? Yes **No**

If the property is already listed, a licensee CANNOT contact the seller to attempt to list the property. The KREC has ruled that if the SELLER CONTACTS AN AGENT before the listing expires, the agent may meet with the seller and sign a listing to become effective upon the expiration of the current listing. Yes, there's a form for that!
<http://krec.ky.gov/legal/Legal%20Forms%20%20Contracts/L110.pdf>

18. Can a real estate licensee publish or circulate an unjustified threat of a legal proceeding?
 Yes **No**

Brokers and agents don't always get along. Don't circulate a threat of a legal proceeding, just file the suit.

19. When should a licensee give a copy of a document to a person who has just signed the document? **Immediately**

20. When should a real estate licensee provide information that the Commission has requested?
Immediately

21. Who can a real estate licensee legally pay for the name of a potential buyer or seller?
When the referring person has a real estate license.

22. Can a real estate licensee violate the law or the administrative regulations?
 Yes **No**

23. Can the Commission determine the actions that would be improper, fraudulent or dishonest dealing on a case-by-case basis? **Yes** No

As the market and world changes, the laws change. So, the KREC has the right to interpret what is improper, fraudulent or dishonest in a transaction.

The following interpretations are found in 201 KAR 11:121 Improper Conduct:

The Real Estate Settlement Procedures Act is a federal law that **does not allow** kickbacks or referral fees from service providers. So even though Kentucky law considers it improper conduct without written disclosure, it is against federal law. Don't accept kickbacks and referral fees from service providers.

Paying or receiving referral fees **between licensed agents** for brokerage services **is legal**. No disclosure is required to the parties regarding the commission split. It is **legal to advertise** the commission rate that your brokerage charges.

To **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.

Example: If a seller says, "You may sell the property to anyone except my previous business partner." that is a legal instruction, which should be in writing and signed by the owner.

A licensee must always follow Fair Housing laws.

Failure to satisfy a fiduciary duty is improper conduct. Fiduciary duties to the client are:

- a. Obedience to lawful instructions;
- b. Loyalty;
- c. Disclosure;
- d. Confidentiality;
- e. Accounting; and
- f. Reasonable care and diligence.

negligence.

The failure to exercise a stand of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal stand established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding or others' rights.

gross negligence.

A lack of slight diligence or care. A conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences to another party, who may typically recover exemplary damages.

In a real estate transaction, gross negligence is the omission to perform a fiduciary duty.

24. Is violating a Federal Fair Housing Law, including blockbusting, steering considered grounds for disciplinary action from the Commission? **Yes** No

25. When is a principal broker liable if the licensee is found guilty of violating the law? **If the broker had knowledge and did not prevent the violation.**

26. What is the duty of the principal broker or designated manager to real estate licensed affiliates and employees? **To exercise adequate supervision of activities.**

The **principal broker** can be held liable for improper training and supervision. A licensee is responsible for his/her actions. If there is a question as to how to handle a situation, ask your broker or manager. If the broker has knowledge that a licensee is involved in an illegal activity and does not stop it, the broker is also liable.

27. Are net listings legal in Kentucky? Yes **No**

Example: If the seller says, "I want to net \$100,000 at the closing table and anything you get above that is yours." A net listing is one that **does not have a stipulated selling price or a stipulated compensation** to be paid to the brokerage. Net listings are illegal in Kentucky.

201 KAR 11:121. Improper conduct

1. Does a real estate licensee have to disclose to a party to the contract that they are paying a referral fee to another real estate licensee? Yes **No**

2. Is a real estate licensee allowed to advertise his/her the real estate commission or compensation that will be charged in a real estate transaction? **Yes** No

3. An owner has listed his/her property with a real estate brokerage firm. What steps must the listing agent take if the owner does not want the property shown to a certain person?

Secure the directions from the owner in writing.

4. Can an owner ever refuse to let the property be shown based on a member of a protected class under federal, state or local fair housing laws? Yes **No**

324.400 Real estate education, research and recovery fund -- Fees

1. Where is the Real Estate Education, Research, and Recovery Fund established?

State Treasury

2. How much will a licensee be charged each year to go into the Real Estate Education, Research, and Recovery Fund? **Not to exceed \$30**

3. How much will an applicant pay into the Real Estate Education, Research and Recovery Fund when he/she secures an real estate license? **\$30**

324.410 Purposes of fund

1. What is the purpose of the Real Estate Education, Research and Recovery Fund?

To protect the public should a real estate licensee be found guilty of fraud and is not able to pay the aggrieved party.

2. What is the maximum amount that an individual may be paid from the Fund? **\$20,000**

3. What is the maximum amount that will be paid out on behalf of any one licensee?

\$50,000

4. What is the minimum amount of money that must be maintained in the recovery fund?

\$400,000

5. Once the Recovery Fund at met the minimum amount, excess funds may be used for:

a. **The advancement of education and research.**

b. **To underwrite educational seminars, etc.**

c. **To establish a real estate chair or courses at colleges and universities.**

d. **To fund research projects.**

e. **To fund educational projects.**

f. **To work with the Kentucky Association of REALTORS and other groups for the advancement of real estate education.**

6. At the end of each fiscal year the Commission has how many days to mail a statement of income and expenses to the licensees regarding the income and expenses of the Recovery Fund? **120 days**

324.420 Collection by aggrieved party from recovery fund

1. What is the first step an aggrieved party must take to receive money from the Recovery Fund? **File a complaint on forms provided by the KREC.**

2. If a violation of fraud is found and the Commission cannot ascertain the damages, what governing body will determine the damages in the case?

A Circuit Court in the county where the violation took place.

3. May the Commission's decision be appealed? **X** **Yes** _____ No

4. Once a final decision has been reached, how many days does the licensee have to pay the aggrieved party? **20 days of the final order**

5. What is the status of the license of the licensee against who was found guilty in the case?

Suspended and may be permanently revoked until the recovery fund has been repaid plus 10% interest per annum.

6. If money is paid from the Recovery Fund on behalf of the licensee, does the licensee have to repay the money? **Yes**

7. What does the word **subrogate** mean?

To assign a right, title or interest from one party to another party. If an aggrieved party is paid from the Fund, the aggrieved party would transfer (subrogate) his/her right to collect from the agent to the KREC.

8. To receive money from the Recovery Fund, when must an aggrieved party files a claim?

Within 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.

9. Who is an aggrieved party? **Any person that has direct relationship with a licensee.**

This includes anyone who demonstrates an interest in purchasing, leasing, renting, or otherwise works with a licensee.

10. What happens if there is not enough money in the Recovery Fund to pay the aggrieved party?

The aggrieved party will be paid when the money becomes available and will collect 10% per annum.

324.395 Errors and Omissions Insurance Mandatory for All Licensees

1. If a licensee has placed his/her license in escrow, is he/she required to maintain E&O insurance? ____ Yes **X** No

2. Does the E&O insurance have to be made available to ALL licensees? **X** Yes ____ No

3. Is a licensee required to purchase E&O insurance from the provider selected by the Commission? ____ Yes **X** No

4. When must the annual premium for the E&O insurance be paid?

By midnight of March 31st

5. Under the Commission's policy, what is the maximum premium that licensee can be charged?

Not to exceed \$200

6. If a licensee chooses to be covered by a company other than the Commission's E&O carrier, what document is the licensee required to file when renewing his/her license?

Certification of Coverage

7. What is the limit of liability under the policy?

Not less than \$100,000 for any one (1) claim nor less than \$1,000,000 annual aggregate limit of liability. This includes the cost of investigation and defense.

8. A principal broker has **40 licensees** and chooses to purchase E&O from an independent provider. What is the minimum annual aggregate amount for the policy? **\$1,000,000**

9. A principal broker **has 41+ licensees** and chooses to purchase E&O from an independent provider. What is the minimum annual aggregate amount for the policy? **\$2,000,000**

Be sure to read all the exclusions under E&O Insurance Policy. Once you are licensed, request a copy from the E&O Company and READ YOUR POLICY!

Fraud is NOT covered!

NOT paying your taxes is NOT covered.

Bodily injury or destruction of property is NOT covered.

Slander is NOT covered.

Violations of Securities laws are NOT covered.

Blue Sky Laws are state securities laws.

Commingling of money is NOT covered.

A property manager who does not have adequate insurance is NOT covered.

Unlawful discrimination is NOT covered.

Environmental issues are NOT covered.

If you are a builder-developer, you are NOT covered.

Other business activities such as lending are NOT covered.

Principal Broker

The principal broker is the **one person** who is responsible for the **operation of the company** and has a broker's license. The term "broker" means a person who has a broker's license, but it does not mean that the person is the principal broker.

324.115 Brokers required to maintain definite place of business

1. A principal broker who is a resident of Kentucky is required to maintain a definite place of business in Kentucky. **X True** _____ False

The principal broker **must maintain** a place of business **in Kentucky** UNLESS he/she is a non-resident. A non-resident principal broker must maintain office in state in which he/she is licensed and that state's does not require KY brokers to have an office in their state.

324.112 Broker to manage certain branch offices – Qualified sales associate may manage certain branch offices – Filing of licenses

1. Who must manage an office **outside a 100 mile radius** of the main principal broker's office? **A person with a broker's license.**
2. What are the requirements for a sales associate to manage an office **inside a 100 mile radius** of the main office? **2 years' experience averaging 20 hours per week for a period of 24 months prior**
3. When must a principal broker register a branch office with the Commission?
Within 10 days of the creation of the branch office
4. Where will a sales associate's license be kept?
In the office where he/she is actively engaged in the real estate business
5. What are the requirements for affiliating with another broker to close a business?
A principal broker closing the business may affiliate temporarily with another principal broker IF no other licensees are affiliated with office being closed. Both principal brokers inform KREC of the affiliation and no consumer can be adversely affected by the affiliation.

324.425 Closing existing business of deceased principal broker

1. IF a principal broker **dies or becomes incapacitated** the Commission can appoint a sales associate to complete and close existing business for up to what time frame? **Up to six months**

Please note. This means the appointed sales associate **could close existing sales contracts and options contracts.** The appointed sales associate **could NOT accept new listings.** All listing contracts would be voided upon the death or incapacity of the principal broker.

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

1. Notice must be given in writing to the KREC for a change of principal business location, a change of firm name, a sales associate's transfer from one principal broker to another or a change of surname. **True** False

2. How many days does a licensee have to notify the Commission in writing of a change of residence address? **10 days (There is no charge for a change of resident address.)**

3. A fee shall be assessed for **certification** of a licensee's status with the Commission. The fee is \$10.

3. Upon annual renewal all licensees must provide the Commission with a telephone number and email address. **True** False

324.111 – Escrow Accounts

1. Who must maintain an escrow account?

The principal broker

2. Can the escrow account be included in a business account? Yes **No**

3. When must a contract deposit be deposited into the escrow account? 48 hours
 60 hours **72 hours (3 business days)**

4. Where must the escrow account be located? **In Kentucky**

5. May the escrow account be interest bearing? **Yes** No

6. If the account is interest bearing, who collects the interest earned on the account?

The interest will go to the person agreed to in writing.

7. Can a broker write a check against uncollected deposits in the escrow account?
 Yes **No**

8. What are 4 possible actions that may occur for the broker to release the money from the escrow account?

- a. Closing the transaction;
- b. Release in writing by all parties;
- c. Court Order; or
- d. Release Process.

9. At what times will the principal broker sign a permit giving the Commission the permission to audit all his escrow account? **Initial licensure and each renewal by March 31**

10. For the Release Process, does the broker have to send a certified letter to all parties that the contract deposit will be released according to the terms in the letter unless they (1) enter into a mutual release or (2) enter into litigation within 60 days? **X** Yes No

11. What are the requirements for a property management escrow account where security deposits must be placed?

If the brokerage engages in property management activities, there must be a separate escrow account or the property management fund must be specifically identified as property management funds in the escrow account used for real estate brokerage activities.

12. If a real estate licensee owns rental property, is he/she required to use the principal broker's management account for the rental property? Yes **X** No
Kentucky law does not require it, but the principal broker may require it.

executory contract.

A contract in which one or more parties has a duty to be performed. A sales contract is an executory contract because the buyer must pay for the property and the seller must bring a good title to the closing. Most contracts are executory contracts.

executed contract.

A contract that has been fully performed by the parties.

Do not confuse an executed contract with the act of executing or signing a document.

201 KAR 11:030. License Cancellation Fees

1. Under what circumstances will a real estate license be automatically cancelled?

If written notice is not given to the KREC for a change of principal business location, a change of firm name, a sales associate's transfer from one principal broker to another or a change of surname, the license will be cancelled.

If securing a real estate license outside of Kentucky, that state will require a **certification** of status of the Kentucky license which will cost **\$10**.

Yes, you need to know the cost of all the fees.

Exam fee – not to exceed \$100

Original license fee – not to exceed \$30

Renewal license fee – not to exceed \$30

Transfer from one principal broker to another - not to exceed \$10

Certification of status with the KREC - \$10

Request for any change – not to exceed \$10

Recovery fund fee – not to exceed \$10

Criminal records check – not to exceed \$30

324.288 Affiliation fee

1. Can a broker charge an affiliation fee? ____ Yes **X** **No**

2. What is the definition of an affiliation fee?

A fee paid to a principal broker for the "privilege" of having the broker hold your license. This is different than a "desk fee" which some agents pay.

324.310 Delivery of sales associate's license to Commission when association terminated Placing license in escrow with the Commission

1. What are the duties of the principal broker if the sales associate requests his/her license to be returned to the Commission? **The broker must sign the license, write a communication to the agent that the license is being returned to the KREC, include a copy of the communication with the license and immediately return the license to the KREC. If not returned in 5 days the broker will be in violation of the law.**
2. Can a real estate licensee be active in the business when his/her license is not held by a principal broker? _____ Yes **X** **No**
3. Can a real estate licensee be active in the real estate business while his/her license is in escrow? _____ Yes **X** **No**
4. What are the actions a real estate licensee must take to keep a license in escrow?
Pay annual license renewal fees
5. What are the actions a real estate licensee must take to remove his/her license from escrow?
Pay the proper fees and completion of all continuing education classes.

Broker - Sales Associate Relationship 324.312 Commission's right for return of associate's license Sanction for failure to return

1. When is the principal broker obligated to return a sales associate's license to the KREC?
Immediately! If the license is not returned within 5 business days the Commission will consider the license released and the broker will be in violation of the law.

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

1. Unless there is a written agreement otherwise, what is the status of a sales associate's listings when he or she decides to transfer to another broker? **Unless there is a written contract stipulating otherwise, the listings belong to the principal broker.**


2. A principal broker returned a sales associate's license to the Commission. What are the sales associate's options? **The sales association has 30 days to reaffiliate with another broker or request by letter that his/her license be placed in escrow.**

3. What is the status of the license if the salesperson takes no action? **The license will be cancelled.**

324.010 Definitions and application

	<p>Remember...</p> <p>Net listings are illegal.</p>
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324.160 (4) (f) Grounds for suspension or revocation of license, issuance of reprimand, levying of fines or requiring further academic study

	<p>Remember...</p> <p>The only party who can pay you is your principal broker.</p> <p>As a property manager you can only accept a commission, rebate or profit on an expenditure with the full knowledge and consent of the owner.</p> <p>You CANNOT pay an unlicensed person for the names of potential buyers and sellers.</p>
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201 KAR 11:062. Retention of brokers' records

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

201 KAR 11:095. Closing statements

1. How long is a broker required to keep records of a real estate transaction? **5 years**

2. What documents must be kept in one file?

Any **written offers** to lease or purchase.

The **acquisition** of and **disbursement** of any monies

Listing and **sales** contracts

Closing sheets

Property **disclosure** forms

Agency **disclosure** forms

3. If the financial institution or the attorney does not furnish a closing statement, who is responsible for doing so? **The real estate broker**

Working with the Seller

371.010 Statute of frauds; Contracts to be written

Statute of Frauds.

The statute of frauds require certain documents to be in writing.

1. A contract for the sale of **real estate** or a **lease** for more than one year is required to be in writing.
2. To sue for a commission for the sale or lease of real estate or for assisting another in the sale a real estate, a person must have a written contract. **X** **True** False

Listing Contracts

324.160 (4) (p) Grounds for suspension or revocation of license

1. If a seller has entered into an **exclusive agency** listing with a real estate brokerage, an agent from another brokerage CANNOT attempt to obtain a brokerage agreement with the seller.

The Commission has now ruled that, **in the event that the seller contacts the agent**, the agent can then view the property and sign a listing agreement that will begin at the **expiration** of the current listing. **By no means does this change allow agents to solicit sellers of listed property.**

201 KAR 11:250. Listing and purchase contracts and other agreements entered into by licensees; provisions required

Section 1

Listing contracts shall include:

- a. The **listing** price of the property, unless the property is being sold at auction.
- b. The **date** and **time** when the parties sign the listing agreement.
- c. The **date** and **time** when the listing expires. **The listing cannot automatically renew. (201 KAR 11:100. Exclusive listing contract; continuation)**
- d. The **fee** that the seller(s) agree to pay.
- e. The **location** of the real estate which is listed for sale. (This could be a street address, legal description or tax parcel number.)
- f. **ALL owners or anyone who has any interest in the property should sign the listing agreement.**
- g. Any **special instructions from** the owner and sub-agency restrictions must be in writing. (Do not put a for sale sign or lock box on the property.)
- h. IF there are **any changes** on the listing agreement, the changes must be **initialed and dated.**

Broker Lien Law

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. If the law is followed a real estate **principal broker** may place a **lien** on the listed property when services were performed and compensation was not paid.
2. If properly filed, the lien will take **precedence** over a mortgage or other contract lien.
3. To acquire a lien, a real estate broker must have a **contract** with the owner or his agent.

4. The lien must be filed in the county clerk's office where the **property is located** within **six** months after the services have been provided.
5. Action must be brought within **twelve months** from the day of filing the statement in the clerk's office.
6. A principal broker cannot place a lien on **newly** constructed residential real estate unless the purchaser had agreed in **writing** to **directly** compensate the broker.
7. In order for the principal broker to file a lien, the owner or the owner's authorized agent must **list** the subject property in a **written** agreement; or the owner must agree in **writing** to pay the principal broker a fee for services as a buyer's representative; and the services are performed.

The principal broker should seek the services of an attorney to assure the proper legal steps are taken to file this lien.

Stigmatized Properties

324.162 Agent's duty to disclose

A property that has a stigma because of an event or some fact relevant to the property, such as murder, suicide, violent crime or the presence of ghosts is classified as a stigmatized property.

If a buyer is interested, he or she should ask the seller about any possible stigmas. The buyer may also do an internet search using the property address to see what can be discovered before writing an offer. Another option is to visit the local sheriff's department and asking about the property before writing an offer.

If a seller is asked specific questions, he or she must answer those questions honestly.

However, under KRS 324.162, licensees **do NOT have an affirmative duty to disclose** anything about a property that is not specifically required to be disclosed under KRS 324 and the applicable regulations or under applicable federal law.

324.117 Advertising Regulations of Commission and 201 KAR 11:011.

"False, misleading, or deceptive advertising" is an advertisement that is not factual, that leads a person to a mistaken conclusion; OR knowingly made a representation that is contrary to fact.

"Fraud" is a material misrepresentation that is false. (A person is lying and he/she knows it is a lie.) The "misrepresentation" is made to induce someone into an act and this action causes financial injury.

1. May the name of a deceased broker remain a part of the firm name? **Yes** No
2. Under what circumstances may a sales associate have his/her name as a part of the firm name? **2 years experience with the firm averaging at least 20 hours per week for 24 months**
3. What **must be found** in an advertisement for **listed** property? **The principal brokers name and his/her designation as a principal broker or the name of the brokerage firm.**
4. A real estate licensee is renting an apartment in an investment property he/she personally owns. Is his/her broker's name or the name of the company required to be in the ad?
 Yes **No**
5. When listing a property, the licensee is required to inform the owner in writing that ALL ads must be approved by the principal broker and contain the real estate company name or the name of the principal broker and his/her designation as a principal broker.
 Yes No

Link to Sample Advertising Disclosure Form

<http://krec.ky.gov/legal/Legal%20Forms%20%20Contracts/AD101.pdf>

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

1. Must a principal broker have the written consent of the owner to advertise a listed property?
 Yes No

2. What are the two requirements for advertising listed property to the general public?

a. **Written listing**

b. **Written consent of the owner**

3. May a buyer's agent advertise his/her participation in the sale after a binding contract is created? **X** **Yes** ___ No

4. What is the requirement for placing a **sign** on listed property?

Written consent of the owner and a written listing

5. All listed properties must include the name of the real estate company or the name of the real estate company's principal broker and his/her title as the principal broker?

X **True** ___ False

6. All advertisements placed by a licensee must be approved by the principal broker or by an individual designated by the principal broker to approve ads. **X** **True** ___ False

7. What are the licensee's duties relating to advertising laws when listing property?

a. **Discuss the Kentucky law requirements with the owner;**

b. **Provide written notice of the laws to the owner; and**

c. **Obtain the owner's written consent to comply with the law.**

8. May a licensee advertising public information on properties that have sold and closed even if he/she did not have the listing agreement? **X** **Yes** ___ No

9. What are the two requirements for advertising another real estate broker's listings?

a. **The consent of the listing's broker agreement to advertise his/her listing; and**

b. **The ad must include the complete name of the listing real estate brokerage company.**

201 KAR 11:420. Standards for internet advertising

1. What must be included in a real estate brokerage company's home page?

a. **The brokerage name as recorded with the KREC.**

b. If the principal office location is in another state, the fact that the broker is a Kentucky licensed broker must be included.

c. The street address and phone number of the company's principal office must be included.

2. A real estate licensee is developing his/her own personal website. What must be included on the homepage of the website?

a. Licensee's name

b. Principal broker's name or brokerage firm name

c. If the licensee's principal business location is outside of Kentucky there must be a statement that the licensee holds a Kentucky license.

d. The regulatory jurisdiction of the licensee's principal business address; and

e. A street address and phone number for the licensee's principal business location.

201 KAR 11:011. Definitions

Guaranteed sales plan is defined as an offer or solicitation to guarantee the sale of the owner's real estate or the guarantee to purchase the owner's real estate if it is not sold by the brokerage within a stipulated timeframe.

1. What are the 4 requirements to advertise a guaranteed sales plan?

a. If a fee is charged for participation.

b. If the real estate has to meet qualifications

c. Who will determine the purchase price

d. If the owner has to purchase property listed by the broker or someone the broker designates

2. Are there regulations regarding the advertisement of a guaranteed sales plan that is in print, in the radio or television? **X** **Yes** No

201 KAR 11:121. Improper conduct

1. Can a real estate agent refer a buyer or seller to another active agent in another city and be paid a referral fee? **X** **Yes** No

2. Can a real estate agent advertise the commission rate he/she will charge in a transaction?
 X **Yes** No

3. Can an owner refuse to let certain people from viewing or inspecting the property?
 X Yes, just get the name/s in writing but the refusal cannot violate fair housing protected class.

Disclosures

Seller's Disclosure of Property Condition 324.360 Form for seller's disclosure of conditions

6. The seller's Property Disclosure Form law applies if a licensee is receiving compensation in a commercial transaction. _____ True X False (Only a single family home if a licensee is being compensated.)

7. The listing licensee should ask the seller to complete and sign the Property Disclosure form at the time the property is listed. X True _____ False

8. A copy of the Property Disclosure form shall be provided by the **listing** agent to any prospective buyer or a buyer's authorized **representative** upon **request**.

9. A prospective buyer has made an offer on a property and did not receive a copy of the Property Disclosure form. The listing agent has **72 hours** to get a copy to the buyer.

10. The **listing** agent shall solicit the **signature** of the buyer on the Property Disclosure Form and shall retain a copy in the **principal broker's** records.

11. Should the buyer **refuse** to **sign** the form, the licensee shall note the buyer's **refusal** to sign on the form and retain a copy in his/her **principal broker's** records.

12. If an agent is representing a buyer who wants to make an offer on a FSBO property, the agent is required to ask the seller to complete the Property Disclosure form.
 X True _____ False

13. If a FSBO completes and signs the Property Disclosure Form, the agent should deliver it to the buyer or potential buyer within 120 hours of the creation of any executory contract for the sale of the property.

14. When the Property Disclosure Form is delivered to a buyer, the licensee should solicit the **signature** of the buyer and retain it in the principal broker's **records**.

15. The **original copy** of the Property Disclosure Form is to be retained by the listing brokerage firm or the buyer's agent if the buyer is purchasing a FSBO.

16. 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**.

17. 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.

18. It is legal for a licensee to fill out the Property Disclosure form if the seller requests the licensee to do so. This is legal, but it is not recommended.

207.250 Disclosure of HIV information in real estate transaction prohibited

1. It is legal to disclose that an occupant of real property is or has been infected with HIV.
 True **False**

Megan's Law

1. Megan's Law requires individual who have been convicted of sexual crimes to register with law enforcement official once they are released from incarceration. **True** False

Refer buyers to the Kentucky State Police website to check the registry.

<http://kspsor.state.ky.us/>

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

Condominium Certificate -

<http://krec.ky.gov/legal/Legal%20Forms%20%20Contracts/M107.pdf> Kentucky's

The Condominium Law only applies to properties that are established as condominiums. There are patio homes and other communities that have a homeowner's association but this law does not apply to them. Listing agents should ask sellers for the information because buyers will still want to know it. Buyer's agents should have buyers of a condo ask for the information.

A developer or declarant files a declaration instrument such as a "master deed" creating the condominium regime.

"Condominium" means real estate, portions of which are designated for **separate ownership** and the remainder of which is designated for **common ownership** solely by the owners of those portions.

A "condominium" is a way of owning property. It is NOT a description of an architectural style. A "unit" can be found in residential, office, or industrial properties. Generally, the "unit" is from paint-to-paint within the interior walls.

Common elements are all portions of a condominium other than the units. The Board of Directors is elected from the members within the community and these members are responsible for the management of the community.

Limited Common Elements are a portion of the common elements allocated by the declaration or by operation of KRS 381.9127 for the exclusive use of one or more but fewer than all of the units. (Balcony, patio, and assigned parking spaces are examples of limited common elements.)

The owner becomes a member of the **Homeowners Association(s)** and has voting rights. The function of the Homeowners Association (**HOA**) is to organize, manage and maintain the community.

The KREC does NOT regulate nor have jurisdiction over community management associations. The KREC does have jurisdiction over property managers. The Homeowners Association may hire a property management company or community association company to handle the day-to-day activities of the community.

Kentucky law requires a licensee to give the Condominium Certificate to the owner. Licensees **should NOT** complete the form or help the seller complete the form! A condo seller must furnish the certificate and documents to a condo purchaser, "before execution of any contract for sale of a unit, or otherwise before conveyance."

A condo seller is NOT liable to a condo purchaser:

1. If the association fails or delays to provide the required certificate; or
2. If the association provides a certificate that includes any incorrect information.

A condo purchaser has a right to receive:

1. A condominium certificate

2. A copy of the following association records:
 - a. The declaration other than the plats and plans;
 - b. The bylaws; and
 - c. The rules or regulations.
3. A current operating budget and any balance sheets; and
4. An insurance statement/summary that describes any insurance coverage provided for the benefit of unit owners.
5. If there is a right of first refusal or other restraint on the transference of the property.
6. Monthly Homeowner Association fee, special assessments and any other fees paid by the owner in regards to the condo.
7. Capital expenditures anticipated by the association for the current and, if known, the next two fiscal years
8. Amount of any reserves for capital expenditures "Capital expenditure" means an expenditure to replace, repair, or improve common elements, or acquire new common elements.
9. A statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is a defendant.
10. 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. A leasehold condominium is one in which all, or a portion of the real estate is subject to a lease, the expiration or termination of which will terminate the condominium or reduce its size.

If an **association fails** to provide a completed certificate, or if it is provided **later than 10 days after the condo seller requests it**, then the condo purchaser's contract to buy will be **voidable** until the certificate has been provided and **for 5 days thereafter** or until conveyance, whichever first occurs. A buyer does have the right to **waive the completion** of the certificate or receipt of documents.

The Homeowner's Association has a right to **charge a reasonable fee** to prepare the certificate. Any fee imposed for the preparation of a certificate shall NOT exceed the lesser of **\$225 or 80% of the current monthly assessment fee** charged that unit by the association; and no more than **\$50 shall be charged to update** a previous certificate issued in the same fiscal year of the association.

An association must:

1. Furnish the required certificate **within 10 days** after a condo seller requests it;
2. Keep sufficient details in its financial records to enable it to satisfy the certificate requirements; and
3. Make all financial and other records reasonably available for examination by condo sellers or their authorized agents.

If a licensee has a seller-client who does not know, or is uncertain about, whether the property to be sold is or is not "a condominium" that is subject to the requirements of the condo law, then the licensee should advise the seller-client to contact a private attorney.

201 KAR 11:440. Personal Assistant Duties

1. Can a nonlicensed person working under the supervision of a real estate broker contact the public for the purpose of setting an appointment for the agent? **Yes** **No**

2. Can a non-licensed assistant:

Negotiate terms of a real estate transaction or real estate brokerage agreement?
 Yes **No**

Complete offers or **contracts** relative to a real estate transaction? **Yes** **No**

Disclose information that is available to a real estate licensee but is not available to the general public? **Yes** **No**

Attend a real estate **closing in place of the licensee?** **Yes** **No**
(An unlicensed assistant may assist a licensee at a closing.)

Access information which requires **membership** in an industry trade group if the supervising licensee is NOT a member of the industry trade group? **Yes** **No**

Write or place advertisements without a review by a licensee? **Yes** **No**

Express material opinions to anyone other than the supervising licensee? **Yes** **No**

Interpret real estate contractual terminology for others? ____Yes **No**

Represent to others that he has a real estate license? ____Yes **No**

Perform **activities** which require a real estate license? ____Yes **No**

Distribute literature, serve refreshments, greet guests, etc. at an open house IF the **seller or lessor** provides **written** consent and the **supervising** licensee directs the assistant to serve in this capacity? **Yes** ____No

Tell someone if the real estate is listed? **Yes** ____No

Tell someone if a property is under contract? **Yes** ____No

Tell someone if a property has closed. **Yes** ____No

Tell someone the listing price of real estate. **Yes** ____No

May appear in an advertisement as long as the ad does not **indicate or imply** that the unlicensed assistant has a real estate license? **Yes** ____No

May set appointments on behalf of the supervising licensee? **Yes** ____No

Receive **confidential** information from a party to the real estate transaction but it may only be communicated to the supervising licensee? **Yes** ____No

Copy a **key** if directed by the supervising licensee? **Yes** ____No

Unlock real estate with the owner's consent, but the unlicensed assistant cannot NOT **show** the real estate or provide any information other than public information? **Yes** ____No

2. The principal broker is responsible for the supervision of non-licensed assistants and he/she may assign someone else to supervise them. Anyone supervising a nonlicensed personal assistant, office worker, or clerical worker must be informed of the **administrative** regulations and the Kentucky laws regarding the duties.

The principal broker must establish a **policy** for supervision to ensure compliance with the laws. The supervising licensee must supervise the unlicensed assistants and be **reasonably** accessible to assistants.

No Call Laws

367.46951 Definitions for zero call list

1. Telephone solicitation includes a live or recorded communication sent by a fax machine to a residential, mobile, or telephone paging device to solicit a sale; obtain information that will be used to solicit a sale; or offering a prize, gift or anything of value if payment of money is required to receive the gift, etc. X **True** _____False

2. A telephone solicitation does NOT mean:

- a. a telephone call made in **response** to an **express** request;
- b. a telephone call made to the **debtor**;
- c. a telephone call to any person with whom the telemarketer or merchant has a **prior** or **existing** business relationship.

3. A merchant is allowed to call another merchant. X **True** _____False

4. Telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list. X **True** _____False

5. The do-not-call list is updated **quarterly**.

Kentucky is now a part of the Federal Do Not Call database.

Kentucky fine – UP to \$5,000 per call - Federal fine – Up to \$16,000 per call

The **National Do Not Call Registry** applies to any plan, program, or campaign to sell goods or services through **interstate phone calls**. This includes telemarketers who solicit consumers, often on behalf of third party sellers and sellers who provide, offer to provide, or arrange to provide goods or services to consumers in exchange for payment.

A telemarketer is any person or business who, in connection with telemarketing, initiates or receives telephone calls, to or from a customer, consumer or client.

A telemarketer may call a consumer with whom it has an **established business relationship for up to 18 months** after the consumer's last purchase, delivery, or payment; even if the consumer's number is on the National Do Not Call Registry.

In addition, a company may call a consumer for **up to three months after the consumer makes an inquiry or submits an application** to the company.

Telemarketers are required to search the **registry at least once every 31 days** and drop from their call lists the phone numbers of consumers who have registered.

Please note. If a consumer asks a company not to call, the company may not call, even if there is an established business relationship.

The exceptions to the do not call laws are: calls placed by political organizations, charities, or telephone surveyors.

If a consumer has given a company **written permission**, the company **may call** even if the consumer's number is on the National Do Not Call Registry.

An agent who has a legitimate buyer of a For Sale by Owner property may call the For Sale By Owner to discuss the **presentation of the potential buyer**, even if the owner's number is on the Do-NOT-Call list. **An agent may NOT call the For Sale By Owner to solicit the listing**, if the For Sale By Owner's number is on the do not call list.

If a **listing has expired**, **only** the listing agent and agents within the listing brokerage firm may contact the sellers for up to 18 months after the expiration of the listing. Agents from other companies would need to check the do not call registry and if the number is listed, they should not call.

If the owner of the expired listing asked to be placed on the do not call list, that request must be honored.

If an agent is conducting an open house and has a sign-in book for potential buyers, it is recommended that there is a separate line asking for permission to call or email anyone who signs the guest registry. Unless the consumer gives permission to call or email, it is recommended that the agent not communicate in that manner.

Working with the Buyer

201 KAR 11:250 - Listing and purchase contracts and other agreements entered into by licensees; provisions required

Section 2 – Offer to Purchase

An offer or counteroffer prepared by an agent, or at the direction of a licensed agent, shall include:

- a. The **price**; the amount of **contract deposit** and the name of brokerage firm who will be holding the deposit;
- b. The **date** and **time** the offer or counteroffer was signed by the parties;
- c. The **date** and **time** when the offer or counteroffer will expire;
- d. The identification of the property being sold; **street address, legal description or tax parcel number**;
- e. **Names** of the offering party or parties as well as the name of the **agent** who prepared the offer or counteroffer; and
- f. The **closing and possession dates**.

Section 3. Backup Offer

1. If a buyer wants to make an offer on a property where there is already an accepted contract, the agent must include specific language for the backup offer. **True** False

"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."

Section 4. Financing Provisions

Offers must contain the following financing provisions:

- a. How the **purchase will be** financed; (Cash, conventional loan, FHA insured loan, VA guaranteed loan, etc.)

b. If the **seller is financing the property or if the buyer is securing a loan from a commercial institution** or otherwise.

Section 5. Rebates and Inducements

A licensee may enter into rebates and inducements with parties to a contract, but the agreement needs to be in writing.

Agency Relationships

324.121 Designation of licensee as exclusive agent Effect of designation – Availability of dual agency and 201 KAR 11:410. Broker duties pursuant to designated agency

1. A principal broker may have a brokerage policy to appoint **one licensee** as the designated agent of the seller and **another licensee in the office** as the designated agent of the buyer.

X True False

2. Designated Agency as a brokerage policy must be in writing and communicated to ALL licensees.

X True False

3. A seller must consent to designated agency.

X True False

4. A principal broker cannot be a designated agent. **X True** False

5. If designated agency occurs in a transaction, the principal broker or designated manager becomes the dual agent representing the seller and buyer in a limited fiduciary capacity.

X True False

6. As a dual agent, the **principal broker** or **designated broker** 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.

7. If confidential information is disclosed, the principal broker should notify each client in the transaction. A licensee that receives unauthorized confidential information concerning the other party in the real estate transaction, must disqualify himself or herself as an appointed designated agent.

imputed knowledge.

Knowledge attributed to a given person, especially because of the person's legal responsibility for another's conducts.

i.e. the principal's imputed knowledge of its agent's dealings. (If you know then everyone else knows.)

201 KAR 11:400. Agency disclosure requirements - Definitions

1. **"Business relationship"** means a licensee and a party (buyer/seller) have or had a financial interest in any company, corporation, or other income-producing venture. It also includes any prior representation by the licensee in a real estate transaction, but it does NOT include the current real estate transaction.

2. A **"commercial transaction"** is any transaction **other than** the sale of a single family residential property; a multifamily property containing less than 4 units; a single family residential lot; or an agricultural property.

3. **"Confidential information"** is information that would harm the negotiating position of a party, or a prospective party, if disclosed to the other party in a real estate transaction.

2. As it relates to a real estate transaction in Kentucky, **"contact"** means discussion or correspondence between a licensee and an identified prospective party. The discussion or correspondence must involve the licensee's services and be related to a mutually-contemplated real estate transaction.

3. **"Delivery"** of an item, such as a contract, to a party or prospective party may be by **mail, facsimile transmission, electronic mail, messenger, or hand.**

4. **"Family relationship"** is defined as any **known familial relationship** between a licensee and party regardless of distance of the relationship.

5. **"Party"** is defined as a person that is represented by a real estate licensee.

6. **"Personal relationship"** is defined as a platonic or non-platonic **friendship** between a licensee and a party.

7. **"Prospective party" is defined** a person who has **contact** with a licensee but who has **not** entered into a brokerage agreement with a licensee relative to the contemplated transaction.

Brokerage Policy on Agency

The **principal broker** decides the **agency policy** for the brokerage firm. The two most common policies on agency are designated agency and dual agency.

Consumer's Guide to Agency Relationships

There are two sample of the Consumer's Guide to Agency Relationships found at www.KREC.KY.gov

[A101](#) Consumer Guide to Agency Relationships Model Policy for Dual Agency

[A108](#) Consumer Guide to Agency Relationships Model Policy for Designated Agency and Dual Agency

1. Use of the Consumer's Guide to Agency Relationship and the Agency Disclosure Form does not apply to the sale of real estate at auction, property management of real estate or commercial transactions. **True** False

2. The Consumer's Guide to Agency Relationships must be signed by a buyer before viewing the property at an open house. True **False**

3. The Consumer's Guide to Agency Relationships shall be delivered to a prospective party **prior to:**

a. **Receiving confidential information** from a prospective party in real estate transaction;

b. Entering a **representation agreement**, such as a listing agreement or buyer agency 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 party or prospective party in a real estate transaction.

4. The purpose of the Consumer's Guide to Agency Relationships is to inform the consumer of the brokerage policy on agency. **True** False

5. The Consumer Guide to Agency Relationships may never be changed by the broker. True **False**

6. If the broker changes the Agency Disclosure Statement, the changes must be approved by the Kentucky Real Estate Commission before it can be used. **True** False

7. It is the licensee's duty to ask for the signature of the consumer which acknowledges that the consumer has received the Consumer's Guide to Agency Relationships form.

True False

Agency Disclosure Form

There are two Agency Disclosure Forms at www.KREC.KY.gov

[A103](#) Agency Disclosure Statement - Buyer

[A104](#) Agency Disclosure Statement - Seller

1. The Agency Disclosure Statement shall be given to the consumer and **signed** at the time a **buyer is making an offer** and at the time a **seller is receiving an offer**.

2. Section I of the Agency Disclosure Statement is filled out if the real estate transaction involves agents from two different companies. **True** False

3. Section II of the Agency Disclosure Statement is completed when the real estate transaction involves two agents in the same real estate brokerage. **True** False

4. If Section II of the Agency Disclosure Statement is completed, it will be completed based on the brokerage policy of the office which will be designated agency or dual agency.

True False

You can only check one box in Section II.

5. Any business, family or personal relationship with a party must be disclosed if an agent is a dual agent. **True** False

6. Dual agency is legal with the oral consent of the parties. True **False**

7. Section III of the Agency Disclosure Statement is completed when there is **one agent** in the transaction. **True** False

324.160 (4) (e) Grounds for suspension or revocation of license

1. A real estate licensee must disclose the party for whom he/she represents in the transaction. **True** False

2. 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.

3. A licensee can purchase property listed with another brokerage without disclosing his/her status as a licensee. _____True **X False**

4. A licensee is to receive compensation for a property in which he/she has an interest. The licensee is required to disclose in writing any interest to all parties in the transaction.
 X True _____False

5. It is legal for a licensee to buy, sell, or rent property without disclosing his/her status as a licensee. _____True **X False**

Property Management

324.010 Definitions and application

1. Under Kentucky Law the definition of "real estate brokerage" includes a single act of property management activities. **X True** _____False

2. Property management activities means marketing, leasing, collecting rental payments, payment of notes, mortgages, and other debts, coordinating maintenance, and remitting funds and accounting statements to the owner.
 X True _____False

3. A person who owns his own rental property may lease the property without a real estate license. **X True** _____False

4. A person who owns his own rental property may hire an employee as a property manager and the employee would not need to have a real estate license. **X True** _____False

201 KAR 11:245. Property management procedures and guidelines

1. To manage property for another, a licensee is required to have a written property management agreement. **X True** _____False (Unless the person is in the "exception" category.)

2. Under Kentucky law a property management agreement must contain:
- a. The **business name** and **address** of the brokerage firm.
 - b. The **name** and **address** of the owner.
 - c. The **address** of the real estate being managed as well as the **number** of units to be managed.
 - d. The **date** when the agreement **begins** and **ends**. **A property management agreement may automatically renew, but the agreement must state if it does.**
 - e. A provision stating the method for **early** termination should the property manager want to leave or should the owner want to fire the property manager.
 - f. How the licensee will be paid.
 - g. 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 located and the **security deposit** will be kept. The **account** number must be in the property management agreement and in the **lease**.
 - i. The guidelines for **returning or retaining the security deposit** must be in the **property management agreement and in the lease**.
 - j. The guidelines the licensee is must follow to pay **authorized** expenses.
 - k. The date when the owner wants an accounting of the real estate being managed.
 - l. A copy of the **lease** agreement which the **tenant** sign.
 - m. The **owner must** certify that he/she has received a **duplicate copy** of the property management agreement and the **attached lease form**.
 - n. The owner and licensee must **signature** and **date** the property management agreement.

A sample Property Management agreement is found at www.KREC.KY.gov

[PM101](#) Property Management Agreement

2. A licensee acting as a property manager is required to keep and **owner's ledger** and a **tenant's ledger**. **True** False

3. A licensee acting as a property manager shall give a receipt for any money received as a property manager. The money is to be deposited into the escrow or management account without unreasonable delay. **True** False

5. The amount of money received shall be entered into the owner and tenant ledgers, by unit. **True** False

6. **Expenses** paid by an agent shall be documented by **invoice** or **receipt** by unit; and records must be retained by the licensee.

7. Adjustments to a security deposit shall be entered on the owner and tenant ledgers, by unit. **True** False

8. By law, a licensee shall send a weekly accounting to the owner of all transactions. True **False**. The law requires a monthly accounting to be sent to the owner.

9. Within **60** days of the termination of a management agreement, a licensee shall send the owner a **final** accounting.

10. A licensee who owns real estate being managed shall **comply** with the **accounting** requirements relating to **receipt, deposit and adjustment** of tenant **security** deposits; and be **exempt** from the other accounting requirement specified in this administrative regulation. (If a licensee owns investment property, he/she does not have to send themselves a monthly accounting statement, but the laws regarding the security deposits must be obeyed.)

11. A broker is required to retain documents relating to property management activities for **5 years**.

12. A tenant's security deposit must be deposited into an account just for that purpose. **True** False

324.160 (4) (f) Grounds for suspension or revocation of license

1. The only party an agent can accept compensation from is his or her principal broker. **True** False

2. A real estate licensee acting in the capacity of a property manager can accept a rebate from a carpet cleaning company with the knowledge and consent of the owner.

True False

3. It is grounds for disciplinary action for a licensee to fail to account for money belonging to others which comes into his or her possession. **True** False

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

1. **ALL** principal brokers whose companies engage in property management must maintain property management account/s **separate from** all other accounts. If the principal broker has an escrow account, the broker use the escrow account by specifically indicating in all **escrow records** if funds are property management funds.

2. If a licensee **owns** rental property, the licensee is NOT required by Kentucky law to use the principal broker's management account for rental property. However, the principal broker may require the licensee to use the escrow account of the principal broker.

383.580 Security Deposits

1. If the city or county has adopted the Kentucky Landlord Tenant Laws, security deposits on residential property **must be placed in a separate account** used only for that purpose. The prospective tenant shall be informed of the bank and the account number where their security deposit is held. **True** False

2. **Prior to** collecting a security deposit, a prospective tenant shall be presented with a list of existing damages to the unit and an estimated cost of repairing the damage. The tenant shall also have the right to inspect the premises. **True** False

3. When both the landlord and tenant sign the damage list, it means they are both in agreement with the accuracy of the damages. **True** False.

4. The tenant does not have the right to disagree with the damage list. True **False**
The tenant can disagree and must do so in writing.

5. At the end of the lease term, the landlord is required to inspect the unit and compile a list of damages. The tenant has the right to inspect the property to ascertain the accuracy of the listing. If both parties sign it means they are both in agreement with the damage list.

True False

6. If the tenant refuses to sign the landlord's damage list, the tenant must state specifically in writing the items on the list with which he or she disagrees. **True** False

7. A landlord is not entitled to any portion of the security deposit if it was not placed in a separate escrow account and if the initial and final damage lists were not provided.

True False

8. A tenant who disputes the accuracy of the final damage listing may bring action in the **District Court**.

9. If the tenant does not sign the damage **list** or specifically dissent, the tenant is **NOT** entitled to recover any damages under the law.

10. If a tenant **leaves and does not pay** his/her last month's rent and **does not demand** a return of his/her deposit, the landlord may remove the deposit and keep it after **30 days**.

11. If the tenant **has paid his/her rent** and has a **refund due**, the landlord is required to **send notification** to the last known or reasonably determinable address that a refund is due the tenant. **True** False

12. If the landlord has **sent notice to tenant** that a refund is due and has not received a response within 60 days from sending the notification, the landlord may keep the deposit.

Commercial Real Estate

324.235 Definitions for KRS 324.235 to 324.238.

There are two documents that must be signed when a Kentucky broker or salesperson is working with an out-of-state broker or salesperson that does not have a Kentucky real estate license.

[C101](#) Kentucky Cooperation Agreement - Commercial

[C102](#) Kentucky Notice of Affiliation - Commercial

1. Under Kentucky law commercial real estate means real estate that is lawfully used for **sales, retail, wholesale, office research, institutional, warehouse, manufacturing** or industrial purposes; and multifamily residential purposes of property of **5** or more dwelling units; or property that is **zoned** for a business or commercial use by a planning unit.
2. The definition of commercial real estate **does not** include a single family condominium.
 True False
3. For an out-of-state broker deal in a commercial real estate transaction in Kentucky, there needs to be a written cooperative agreement between them. **True** False.
4. **Kentucky cooperating broker** means a Kentucky principal broker who has entered into a **written** cooperation agreement with an out-of-state principal broker.
5. **Out-of-state principal broker** means an individual who is **licensed** as a real estate **broker** in a state other than **Kentucky**; and he/she is the **designated** broker with whom one or more out-of-state licensees are affiliated or associated.
6. **Out-of-state license** means an individual who is **licensed** as a real estate broker or real estate sales association in a state other than **Kentucky**, and who is affiliated or associated with an out-of-state principal broker.
7. For an out-of-state principal broker or out-of-state licensee to engage in **commercial real estate activities** in Kentucky without securing a Kentucky real estate license the parties must sign the **Cooperative Agreement** and **Notice of Affiliation Agreement**.
8. An out-of-state broker may place security deposits in an escrow account in his/her state.
 True **False**
9. The Kentucky cooperating broker must be **fully informed** of all actions of the out-of-state broker or out-of-state licensee. **True** False
10. An out-of-state broker or out-of-state licensee may advertise commercial real estate if it includes with equal prominence the Kentucky cooperating broker. **True** False
11. An out-of-state broker or out-of-state licensee working under a cooperation agreement with a Kentucky broker must obey Kentucky laws. **True** False

12. The out-of-state broker or out-of-state licensee must provide an address for the service of process in Kentucky. This means legal action can be taken against the out-of-state broker or out-of-state licensee in Kentucky. **X** **True** **False**

15. The notice of affiliation agreement must have a beginning and ending date that corresponds to the cooperation agreement. **X** **True** **False**

18. An out-of-state principal broker or out-of-state licensee must make attest that they are trustworthy and competent in a manner to safeguard the public; and that during the **5 year period prior** to filing the notice of affiliation his/her license has not been **revoked** and that he or she has not been convicted of a **felony**.

19. 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.

20. A notice of affiliation must be signed or authenticated by both the out-of-state principal broker and out-of-state licensee. **X** **True** **False**

21. An out-of-state principal broker and out-of-state licensee may enter into **cooperative** agreements and notices of affiliation with respect to more than **one** Kentucky cooperating broker.

22. If there is no distinction between a real estate principal broker and real estate broker or salesperson, Kentucky law will interpret the agent as an out-of-state principal broker. **X** **True** **False**

23. Preliminary changes of information does not constitute acts of real estate brokerage. **X** **True** **False**

24. 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. **X** **True** **False**

25. The Commission may discipline an out-of-state broker or out-of-state licensee by levying a fine not to exceed \$1,000; issue a **formal** or **informal** reprimand; **report** misconduct to the licensing authority of any state; **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; publish and maintain a **public** registry of any sanctions; and report suspected violations to the **Commonwealth's** attorney.

201 KAR 11:121 Improper Conduct

1. What are the steps a real estate licensee must take be a real estate agent and a loan originator in a transaction?

a. Disclose the dual duties in writing and disclose the additional payment for loan origination activities;

b. Register with the Department of Financial Institutions

c. Perform 5 of the 13 activities required by law.

5. Is it improper behavior for a licensee to receive compensation that is not commensurate with the actual work performed or to receive compensation for work that is not actually performed by him or her? X **Yes** **No**

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

Mortgage Loan Originators Exempted from Registration and Regulatory Requirements

A "natural person" or entities owned in whole or in part by a "natural person" who negotiates no more than 4 loans each calendar year is exempt."

Thank you for the opportunity to be of service!

Let us know if we can be of further assistance.

Contact: Joyce Bea Sterling

Phone: 859-525-8090

Email: Joyce@2MyClasses.com

Website: www.KYRealEstateSchool.com

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