

**CHAPTER 107****(SB 170)**

AN ACT relating to real estate broker liens.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 376.075 is amended to read as follows:

- (1) Any professional engineer, licensed architect, licensed landscape architect, ***real estate broker, or*** ~~and~~ professional land surveyor who performs professional services or services as defined in KRS 322.010(4) for professional engineers, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects, ***KRS 324.010(1) for real estate brokers,*** and KRS 322.010(10) for professional land surveyors shall have a lien on the building, structure, land, or project ***relative to*** ~~on~~ which the services were performed, to secure the amount of the charges for services with interest as provided in KRS 360.040 and costs.
- (2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.
- (3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section.
- (4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.
- (5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.
- (6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of a professional engineer, architect, landscape architect, ***real estate broker,*** or professional land surveyor on a public improvement shall be governed by KRS 376.210.
- (7) ***No real estate broker shall acquire a lien under this section relative to newly constructed residential real estate unless the purchaser has agreed in writing to directly compensate such broker for performing brokerage services related to the transaction.***
- (8) ***No real estate broker shall acquire a lien under this section unless:***
  - (a) ***The owner or the owner's authorized agent:***

1. *Lists the subject property with the broker under the terms of a written agreement to sell, lease, or otherwise convey any interest in the subject property; or*
  2. *Agrees in a written agreement to pay the broker a fee for his or her services as a buyer's representative; and*
- (b) *The broker or the broker's affiliated sales associate provides licensed services that result, during the term of a written agreement described in paragraph (a) of this subsection, in the procuring of a person or entity ready, willing, and able to purchase, lease, or otherwise accept a conveyance of the property or any interest in the property:*
1. *Upon terms contained in a written agreement described in paragraph (a) of this subsection; or*
  2. *Upon terms that are otherwise acceptable to the owner or the owner's authorized agent as evidenced by a written agreement to convey any interest in the property signed by the owner or the owner's authorized agent.*

**Approved March 28, 2002**