

CHAPTER 97**(HB 149)**

AN ACT relating to the continuing education of real estate licensees.

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

➔Section 1. KRS 324.010 is amended to read as follows:

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

- (1) "Real estate brokerage" means a single, multiple, or continuing act of dealing in time shares or options, selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee, compensation, or other valuable consideration;
- (2) "Commission" means the Kentucky Real Estate Commission;
- (3) "Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the fee compensation or other valuable consideration;
- (4) "Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;
- (5) "Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;
- (6) "Sales associate" means any person licensed in accordance with KRS 324.046(2) that is affiliated with a Kentucky-licensed principal broker and who, when engaging in real estate brokerage, does so under the supervision of the principal broker;
- (7) "Approved real estate school" means:
 - (a) A school that has been given a certificate of approval by the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the commission; or
 - (b) A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;
- (8) "Accredited institution" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward a program for either an associate, baccalaureate, graduate, or professional degree;
- (9) "Property management" means the overall management of real property for others for a fee, compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;
- (10) "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage;
- (11) "Designated manager" means a licensed sales associate or broker who manages a main or branch office for the principal broker, at the principal broker's direction, and has managing authority over the activities of the sales associates at that office;
- (12) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;
- (13) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;

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

➔Section 2. KRS 324.085 is amended to read as follows:

- (1) All actively licensed agents except those licensees exempt under KRS 324.046(5), shall successfully complete six (6) classroom *or online* hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law. ~~The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.~~
- (2) *A licensee who is issued an initial sales associate license after the effective date of this Act shall complete forty-eight (48) classroom or online hours of commission-approved post-license education:*
- (a) *Provided by one (1) or a combination of the following:*
1. *An accredited institution; or*
 2. *A commission-approved:*
 - a. *Real estate school; or*
 - b. *Broker-affiliated training program;*
- (b) *Within two (2) years of receiving or activating his or her license unless extended by the commission for good cause shown.*
- (3) *The license held by any licensee failing to complete his or her sales associate post-license education requirements in accordance with subsection (2) of this section shall be automatically canceled, in accordance with administrative regulations establishing compliance and delinquency procedures.*
- (4) *The commission shall promulgate administrative regulations to establish procedures for implementing the requirements in this section.*
- (5) In order to qualify to teach continuing education *or post-license* courses, all continuing education *and post-license* instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

➔Section 3. This Act takes effect January 1, 2016.

Signed by Governor March 30, 2015.