

CHAPTER 84**(HB 62)**

AN ACT relating to real estate brokerage.

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":
 - (a) 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; *and*
 - (b) *Includes advertising for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser;*
- (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;
- (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 324.020 is amended to read as follows:

- (1) It shall be unlawful for any person who is not licensed as a real estate broker or sales associate to:
 - (a) Hold himself or herself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate; *or*
 - (b) *Advertise for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser.*
- (2) No person shall practice real estate brokerage with respect to real estate located in this state unless:
 - (a) The person holds a license to practice real estate brokerage under this chapter; or
 - (b) The person has complied with KRS 324.235 to 324.238.
- (3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.
- (4) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may:
 - (a) Pay a referral fee to a broker licensed outside of Kentucky for referring a client to the Kentucky broker;
 - (b) Pay a commission or other compensation to a broker licensed outside of Kentucky in compliance with KRS 324.235 to 324.238; or
 - (c) Pay a licensed auctioneer for services rendered in cases where an auctioneer and real estate broker collaborate in the conduct of a sale of real estate at auction.
- (5) Except as authorized in KRS 324.112(1) and 324.425, no sales associate shall supervise another licensed sales associate or manage a real estate brokerage office.
- (6) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

Signed by Governor March 23, 2023.