

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

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

STATUTORY AUTHORITY: KRS 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the Real Estate Commission to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 324. This administrative regulation establishes standards for listing and purchase contracts and standards for other types of agreements between licensees and consumers involving real estate brokerage.

Section 1. A listing contract shall include the:

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

Section 2. An offer to purchase or a counteroffer prepared by or at the direction of a licensed agent shall include the:

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

Section 3. (1) If a licensee presents an offer to purchase real estate for which an executory contract to sell the property is already in existence, the offer shall indicate in writing that the offer is contingent upon the nonperformance of the existing executory contract by inserting the following provision in the offer: "This offer is submitted as a back-up offer, which means the property is subject to a previously-accepted offer which has priority over this offer."

- (2) The provision required in subsection (1) of this section shall be:
  - (a) Inserted by the licensee who prepares the offer to purchase, if he is aware of the existing contract; and
  - (b) Made by the listing licensee as a counteroffer.

Section 4. Contracts to Contain Financing Provisions. A contract providing for the purchase of property shall specifically state:

- (1) The manner in which the purchase shall be financed; and
- (2) The amount of any encumbrance and whether it is to be underwritten by the seller or a commercial institution or otherwise.

Section 5. Any agreement for compensation from a licensee to his or her client or customer

shall be in writing. If a licensee fails to comply with the requirement in this section, the licensee's conduct shall be considered improper and in violation of KRS 324.160(4)(u).

Section 6. Negotiating a Subsequent Listing Agreement with Another Broker. (1) Prior to the expiration of an original listing agreement:

(a) Another real estate broker, or sales associate of the broker, shall not contact the seller to obtain a subsequent listing agreement; and

(b) The seller may contact another real estate broker to obtain a subsequent listing agreement.

(2) Another broker, or sales associate of the broker, may enter into a subsequent listing agreement with the seller if:

(a) The seller initiated contact with the licensee to discuss a new listing agreement;

(b) The new listing agreement will take effect upon the expiration of the current listing agreement; and

(c) The commission's Seller-Initiated Re-Listing Request Disclosure Form is properly completed and signed by the seller and licensee. The form shall provide:

1. The seller's affirmation that the seller initiated contact with the licensee to discuss a new listing agreement;

2. The date on which the seller contacted the licensee to discuss a new listing agreement; and

3. The signatures of the seller and the licensee, including the date and time that the seller and licensee signed the form.

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

Section 7. Incorporation by Reference. (1) "Seller-Initiated Re-Listing Request Disclosure Form", July 2009, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m. (17 Ky.R. 2300; Am. 2693; eff. 3-8-1991; 27 Ky.R. 1520; 2495; 2714; eff. 4-9-2001; 31 Ky.R. 1333; eff. 4-22-2005; 32 Ky.R. 2314; 33 Ky.R. 721; eff. 10-6-2006; 36 Ky.R. 433; 1014; 1436; eff. 2-5-2010.)