

1 AN ACT relating to professions licensed by the Real Estate Authority.

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

3 ➔Section 1. KRS 324.085 is amended to read as follows:

- 4 (1) **(a)** All actively licensed agents, except those licensees exempt under KRS
 5 324.046(5) **and those licensees satisfying the educational requirement in**
 6 **subsection (2) of this section**, shall successfully complete **twelve (12)**~~six (6)~~
 7 classroom or online hours of continuing education **for the biennial license**
 8 **period**~~each year~~. **Six (6) of the twelve (12) hours shall be completed in the**
 9 **first year of the biennial license period or the license shall be automatically**
 10 **cancelled.**
- 11 **(b)** **Six (6)**~~Three (3)~~ of the **twelve (12)**~~six (6)~~ hours **of continuing education**
 12 shall be in real estate law.
- 13 **(c)** **A licensee may accumulate additional continuing education hours for the**
 14 **biennial period in the first year of the biennial term.**
- 15 **(d)** **Six (6) of the twelve (12) hours of continuing education may be in real**
 16 **estate-related courses approved by the commission and other real property**
 17 **boards pursuant to KRS Chapters 324A and 330 and KRS 198B.700 to**
 18 **198B.738.**
- 19 (2) A licensee who is issued an initial sales associate license after January 1, 2016, shall
 20 complete forty-eight (48) classroom or online hours of commission-approved post-
 21 license education:
- 22 (a) Provided by one (1) or a combination of the following:
- 23 1. An accredited institution; or
- 24 2. A commission-approved:
- 25 a. Real estate school; or
- 26 b. Broker-affiliated training program; and
- 27 (b) Within two (2) years of receiving or activating his or her license unless

1 extended by the commission for good cause shown.

2 (3) The license held by any licensee failing to complete his or her sales associate post-
3 license education requirements in accordance with subsection (2) of this section
4 shall be automatically canceled, in accordance with administrative regulations
5 establishing compliance and delinquency procedures.

6 (4) The commission shall promulgate administrative regulations to establish procedures
7 for implementing the requirements in this section.

8 (5) In order to qualify to teach continuing education or post-license courses, all
9 continuing education and post-license instructors shall maintain a minimum rating
10 as prescribed by the commission by the promulgation of administrative regulations.

11 ➔Section 2. KRS 324.090 is amended to read as follows:

12 (1) Licenses shall expire biennially~~annually~~ and shall be renewed every two (2)
13 years~~each year~~ on the date determined by the commission by administrative
14 regulation. The commission shall renew a license for two (2) years~~each ensuing~~
15 ~~year~~, in the absence of any reason or condition which might warrant the refusal of
16 the granting of the license, upon receipt of the written request of the applicant and
17 payment of the biennial~~annual~~ fees required. A new license shall be mailed only if
18 the licensee's name, address, status, or affiliation changes.

19 (2) A fine not to exceed two hundred dollars (\$200) shall be assessed for failure to
20 renew on time before a new license is issued. Failure to receive a renewal form shall
21 not constitute an adequate excuse for failure to renew on time nor shall failure of
22 the mail.

23 (3) Any license not renewed at the end of the biennial license period~~renewal year~~ as
24 prescribed by the commission shall automatically revert to expired status. An
25 expired license may be reactivated before a lapse of one (1) year, if delinquent fees
26 are paid by the licensee.

27 ➔Section 3. KRS 324.281 is amended to read as follows:

- 1 (1) There is hereby created the Kentucky Real Estate Commission. The Governor shall
2 appoint seven (7)~~five (5)~~ persons, at least six (6)~~four (4)~~ of whom, immediately
3 prior to the date of their appointment have been residents of the state for ten (10)
4 years and whose vocation for a period of at least ten (10) years shall have been that
5 of an active real estate licensee. One (1) member shall be a citizen at large who is
6 not associated with or financially interested in the practice or business regulated.
7 The term of the members of the commission shall be for three (3) years and until
8 their successors are appointed and qualify, except as provided in subsections (2) and
9 (3) of this section. A majority of the commission shall constitute a quorum for the
10 transaction of business.
- 11 (2) All appointments shall be for the specified three (3) year term. No person appointed
12 after July 14, 2000, shall serve more than two (2) consecutive terms.
- 13 (3) For each appointment or vacancy, the Kentucky Association of Realtors shall within
14 sixty (60) days supply a list of not less than three (3) names of licensees to the
15 Governor each year from which the broker or sales associate appointments shall be
16 made. The Governor may reject the list of three (3) names and request that the
17 Kentucky Association of Realtors submit a new list of three (3) names within sixty
18 (60) days of the Governor's request. If the Kentucky Association of Realtors fails to
19 timely submit this list to the Governor, the Governor may immediately appoint a
20 qualified person to fill this vacancy. The Governor may otherwise fill vacancies
21 arising in the middle of the year from those remaining on the list or from a new list
22 supplied by the association.
- 23 (4) There shall not be more than four (4)~~three (3)~~ members of any one (1) political
24 party serving on the commission at the same time. No member of the commission
25 shall reside in the same county as another member. Appointees to fill vacancies
26 shall be appointed for the unexpired term.
- 27 (5) It shall be the duty of the commission to:

- 1 (a) Promulgate administrative regulations, with the approval of the executive
2 director of the Kentucky Real Estate Authority;
- 3 (b) Hold disciplinary hearings concerning matters in controversy as provided by
4 this chapter;
- 5 (c) Conduct examinations for applicants eligible under this chapter or
6 alternatively to contract with an entity to conduct examinations;
- 7 (d) Conduct necessary educational seminars and courses directed toward
8 continuing education within the real estate field;
- 9 (e) Investigate or cause to be investigated any irregularities in violation of this
10 chapter or the promulgated and authorized administrative regulations of the
11 commission; and
- 12 (f) Participate with any other agency of the Commonwealth or the authorized
13 agency of another state for the betterment or improvement of the
14 administration of the statutes or administrative regulations governing this
15 commission.

16 Any action taken by the commission under this subsection shall be appealable as are
17 other actions of the commission under this chapter.

18 (6) The commission, at its discretion, may use the funds necessary to purchase liability
19 insurance for members and executive officers of the commission, inspectors, and
20 for members of the staff exempted from classified service of the state by KRS
21 18A.115.

22 (7) The commission shall require all actively-licensed agents, except for those agents
23 who were licensed prior to June 19, 1976, to successfully complete mandatory
24 continuing education as a condition of license renewal.

25 (8) The commission shall, by the promulgation of administrative regulations, develop a
26 review process by which continuing education courses may be approved for credit.
27 An applicant may seek the commission's approval for credit for courses not

1 previously approved by the commission by submitting sufficient information
2 describing the course to the commission for review.

3 (9) The Governor shall set the compensation of the members of the commission, but
4 voting members of the commission shall be compensated no less than three hundred
5 dollars (\$300) per day for official business, subject to an annual maximum of six
6 thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and
7 incurred in the discharge of official business consistent with the reimbursement
8 policy for state employees. With the approval of the executive director of the
9 Kentucky Real Estate Authority within the Department of Professional Licensing,
10 commission members and commission staff may attend and travel to and from
11 meetings and events relevant to the commission or to the industry the commission
12 represents.

13 ➔Section 4. KRS 324.287 is amended to read as follows:

14 The commission shall set, charge, and collect the following fees:

- 15 (1) Examination fee, not to exceed one hundred dollars (\$100);~~[-]~~
- 16 (2) Broker's and sales associate's original ***biennial*** license fee, not to exceed ***sixty***
17 ***dollars (\$60)***;~~[thirty dollars (\$30).]~~
- 18 (3) Broker's and sales associate's ***biennial*** renewal fee, not to exceed ***sixty dollars***
19 ***(\$60)***;~~[thirty dollars (\$30).]~~
- 20 (4) ***(a)*** Transfer from one (1) principal broker to another, not to exceed ten dollars
21 (\$10).
- 22 ***(b) If the transfer is initiated by the principal broker for twenty (20) or more***
23 ***licensees, the transfer fee shall not exceed two hundred dollars (\$200);***
- 24 (5) ***Reactivation fee, not to exceed ten dollars (\$10);***
- 25 ***(6)*** Certification of status with the commission, ten dollars (\$10);~~[-]~~
- 26 ***(7)***~~[(6)]~~ Request for any change, not to exceed ten dollars (\$10);~~[-]~~
- 27 ***(8)***~~[(7)]~~ ***Biennial recovery fund fee***~~[Recovery fund]~~, not to exceed ***sixty dollars***

1 ~~(\$60); [thirty dollars (\$30)].~~

2 ~~(9)~~ **Prelicensing education course review fee, not to exceed two hundred dollars**

3 **(\$200);**

4 **(10) Continuing and postlicensing education course review fee, not to exceed fifty**
 5 **dollars (\$50); and**

6 **(11) Distance education course review fee, not to exceed seventy-five dollars**

7 **(\$75)** ~~Broker's and associate's applicant license criminal record check fee, not to~~
 8 ~~exceed thirty dollars (\$30)].~~

9 ➔ Section 5. KRS 324.310 is amended to read as follows:

10 (1) If any sales associate is discharged or terminates his or her association with the
 11 principal broker, it shall be the duty of the broker to immediately deliver or mail to
 12 the commission the sales associate's license in a manner that complies with KRS
 13 324.312, along with the release statement signed by the principal broker. The broker
 14 shall, at the time of mailing the sales associate's license to the commission, address
 15 a communication to the last known residence address of the sales associate, which
 16 shall advise the sales associate that his or her license has been delivered or mailed
 17 to the commission. A copy of the communication to the sales associate shall
 18 accompany the license when mailed or delivered to the commission. It shall be
 19 unlawful for any sales associate to perform any of the acts contemplated by this
 20 chapter either directly or indirectly under authority of the sales associate's license
 21 from and after the date of receipt of the license from the broker by the commission.

22 (2) A licensee may place his or her license in **inactive status** ~~[eserow]~~ with the
 23 commission provided that:

24 (a) The licensee does not engage in any real estate activity for others during the
 25 term of **inactive status** ~~[eserow]~~ of the license; ~~[and]~~

26 (b) The licensee pays the **biennial** ~~[annual]~~ license renewal fees for each **biennial**
 27 **renewal period** ~~[year]~~ the license is in **inactive status; and** ~~[eserow]~~

1 (c) The licensee obtains extended reporting period coverage insurance for one
 2 (1) year at the current minimum requirements then in effect prior to
 3 entering inactive status.

4 (3) At the request of the licensee, after complying with subsection (4) of this section
 5 and upon the meeting of requirements applicable to active licensees, the
 6 commission shall reactivate a license placed in inactive status, in the absence of
 7 any reason or condition which might warrant the refusal of the granting of a
 8 license ~~and completion of all continuing education requirements, a license placed~~
 9 ~~in eserow shall be automatically converted to an active license upon payment of the~~
 10 ~~established change fee.~~

11 (4) To reactivate a license, a licensee shall:

12 (a) Submit an acceptable criminal record check consistent with KRS
 13 324.045(4);

14 (b) Complete all continuing education requirements required by the
 15 commission; and

16 (c) Pay the applicable reactivation fees.

17 ➔Section 6. KRS 324.330 is amended to read as follows:

18 (1) Notice in writing shall be given to the commission by each licensee of any change
 19 of principal business location, a change of firm name, sales associate's transfer from
 20 one (1) principal broker to another, or a change of surname. The commission shall
 21 issue a new license for the unexpired period and shall charge the fee as provided in
 22 KRS 324.287(7)~~(6)~~ for effecting the change on its records. This section shall
 23 apply to both brokers and sales associates.

24 (2) The commission shall be notified in writing of a change of a residence address
 25 within ten (10) days.

26 (3) A fee shall be assessed for certification of a licensee's status with the commission.

27 (4) The commission shall, by the promulgation of administrative regulations, require all

1 licenses to file with the commission, at ~~biennial~~~~annual~~ renewal, their telephone
2 numbers and, if applicable, their electronic mail addresses.

3 ➔Section 7. KRS 324.395 is amended to read as follows:

- 4 (1) All real estate licensees, except those whose licenses are in ~~inactive status~~~~eserow~~
5 in accordance with KRS 324.310(2), shall carry errors and omissions insurance to
6 cover all activities contemplated under this chapter. **Inactive licensees shall obtain**
7 **extended reporting period coverage insurance for one (1) year at the current**
8 **minimum requirements then in effect prior to entering inactive status.**
- 9 (2) The commission shall make the insurance mandated under this section available to
10 all licensees by contracting with an insurance provider for a group policy, after
11 competitive, sealed bidding in accordance with KRS Chapter 45A.
- 12 (3) Any policy obtained by the commission shall be available to all licensees with no
13 right on the part of the insurance provider to cancel any licensee.
- 14 (4) Licensees shall have the option of obtaining ~~the required~~~~errors and omissions~~
15 insurance independently, if the coverage contained in the policy and the financial
16 condition of the insurance company complies with the minimum requirements
17 established by the commission.
- 18 (5) The commission shall determine the terms and conditions of coverage mandated
19 under this section, including, but not limited to, the minimum limits of coverage,
20 the permissible deductible, and permissible exemptions.
- 21 (6) Each licensee shall be notified of the required terms and conditions of coverage for
22 the ~~biennial~~~~annual~~ policy at least thirty (30) days prior to the ~~biennial~~~~annual~~
23 license renewal date. A certificate of coverage, showing compliance with the
24 required terms and conditions of coverage, shall be filed with the commission by
25 the ~~biennial~~~~annual~~ license renewal date by each licensee who opts not to
26 participate in the group insurance program administered by the commission.
- 27 (7) If the commission is unable to obtain ~~the~~~~errors and omissions~~ insurance coverage

1 required by subsection (1) of this section to insure all licensees who choose to
 2 participate in the group insurance program at a reasonable annual premium, not to
 3 exceed two hundred dollars (\$200) per year for required insurance coverage and
 4 not to exceed two hundred dollars (\$200) per year for extended reporting period
 5 coverage, then the insurance requirement mandated by this section shall be void
 6 during the applicable contract year.

7 ➔Section 8. KRS 324.400 is amended to read as follows:

8 (1) There is hereby created and established in the State Treasury the real estate
 9 education, research, and recovery fund.

10 (2) In addition to the license fees provided for in KRS 324.287, upon renewal of every
 11 broker's and sales associate's license, as well as any and all other types of licenses, if
 12 any, issued by the commission, as of June 30, 1972, and every regular
 13 biennial~~annual~~ renewal date thereafter, the commission shall charge each of the
 14 aforesaid licensees an amount not to exceed sixty dollars (\$60)~~thirty dollars (\$30)~~
 15 per year to be included in the real estate education, research, and recovery fund.
 16 Each and every original applicant for a license after July 1, 1972, shall likewise
 17 submit to the commission an additional fee not to exceed sixty dollars (\$60)~~of~~
 18 ~~thirty dollars (\$30)~~ to be deposited in the real estate education, research, and
 19 recovery fund and shall also be subjected thereafter to a biennial~~an annual~~
 20 renewal fee as of the regular renewal period.

21 ~~[(3) In addition to the license fees provided for in KRS 324.287, the commission, based~~
 22 ~~upon its own discretion as to need, may assess each licensee upon renewal an~~
 23 ~~amount less than thirty dollars (\$30) per year, or nothing, but not more. Each~~
 24 ~~original applicant must pay the original amount of thirty dollars (\$30), but on~~
 25 ~~renewal will be subjected to the same renewal amount as other licensees.]~~

26 ➔Section 9. KRS 324.420 is amended to read as follows:

27 (1) An aggrieved party may commence an administrative action which may result in

1 collection from the recovery fund by first filing a complaint with the commission on
2 a form prepared by the commission. The complaint shall constitute a prima facie
3 case that a licensee is in violation of KRS 324.160 and is subject to the same
4 conditions set forth in KRS 324.150. If the complaint constitutes a prima facie case
5 and the matter is not settled, the commission shall hold a hearing pursuant to the
6 requirements set forth in the provisions of this chapter and KRS Chapter 13B to
7 determine if a violation of this chapter has in fact occurred. If a violation of fraud is
8 so found, the commission shall determine if the violation resulted in damages to
9 complainant and in what amount. If damages cannot be accurately determined, then
10 the amount of damages shall be determined by a Circuit Court in the county where
11 the violation took place. In the event the question of damages is referred to the
12 Circuit Court, the decision of the commission will not be final and appealable until
13 the question of damages is certifiable.

14 (2) Upon final order by the commission or upon certification to the commission by the
15 Circuit Court on the issue of damages, and after the licensee has refused to pay the
16 claim within a period of twenty (20) days of entry of a final order, the aggrieved
17 party or parties shall be paid the amount or amounts by the commission from the
18 recovery fund.

19 (3) The license of the licensee against whom the claim was made by the aggrieved party
20 shall be suspended or may be permanently revoked until such time as the licensee
21 has reimbursed the recovery fund in full for all amounts paid, plus interest at the
22 rate of ten percent (10%) per annum.

23 (4) Any party aggrieved by a final order of the commission may appeal to the Circuit
24 Court where the licensee has his principal place of business or where the applicant
25 resides in accordance with KRS Chapter 13B.

26 (5) Upon the final order of the court, and after the commission has paid from the real
27 estate education, research, and recovery fund any sum to the aggrieved party, the

1 commission shall be subrogated to all of the rights of the aggrieved party to the
2 extent of the payment. The aggrieved party shall to the extent of the payment assign
3 his right, title and interest in the judgment to the commission. After such
4 assignment, the commission may challenge in bankruptcy court any attempt by a
5 former licensee to discharge the debt, if proper notice is given. Any funds recovered
6 by the commission shall be deposited in the real estate education, research, and
7 recovery fund.

8 (6) No aggrieved party shall be entitled to recover compensation from the real estate
9 education, research, and recovery fund unless the action against the licensee is
10 commenced within one (1) year~~two (2) years~~ from actual knowledge of the cause
11 of action or from the time when circumstances should reasonably have put the
12 aggrieved party on notice of the cause of action.

13 (7) An aggrieved party shall not be entitled to recover compensation from the real
14 estate education, research, and recovery fund, unless the compensation is for the
15 actual financial harm suffered by the aggrieved party, and this financial harm is
16 specifically and directly related to the property.

17 (8) For purposes of this section, an "aggrieved party" shall mean either:

18 (a) A member of the consumer public who stands in a direct relationship to the
19 licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting,
20 or otherwise securing an interest in real estate through a licensee and who
21 believes that the licensee is in violation of the provisions of this chapter; or

22 (b) A member of the consumer public who directly engages the services of a
23 licensee for purposes of selling, leasing, renting, or otherwise dealing in his or
24 her own property.

25 (9) If at any time the money on deposit in the real estate education, research and
26 recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof,
27 the commission shall, when sufficient money has been deposited in the real estate

1 education, research, and recovery fund, satisfy such unpaid claim or portions
2 thereof, in the order that such claims or portions were originally filed, plus
3 accumulated interest at the rate of ten percent (10%) per annum.

4 (10) Any funds in excess of the four hundred thousand dollar (\$400,000) level which are
5 not being currently used, may be invested and reinvested as set forth in subsection
6 (2) of KRS 324.410.

7 ➔Section 10. KRS 413.140 is amended to read as follows:

- 8 (1) The following actions shall be commenced within one (1) year after the cause of
9 action accrued:
- 10 (a) An action for an injury to the person of the plaintiff, or of her husband, his
11 wife, child, ward, apprentice, or servant;
 - 12 (b) An action for injuries to persons, cattle, or other livestock by railroads or other
13 corporations, with the exception of hospitals licensed pursuant to KRS
14 Chapter 216;
 - 15 (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal
16 conversation, or breach of promise of marriage;
 - 17 (d) An action for libel or slander;
 - 18 (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant
19 to KRS Chapter 216, for negligence or malpractice;
 - 20 (f) A civil action, arising out of any act or omission in rendering, or failing to
21 render, professional services for others, whether brought in tort or contract,
22 against a real estate appraiser holding a certificate or license issued under
23 KRS Chapter 324A *or a real estate broker or sales associate holding a*
24 *license issued under KRS Chapter 324;*
 - 25 (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;
 - 26 (h) An action for the recovery of usury paid for the loan or forbearance of money
27 or other thing, against the loaner or forbearer or assignee of either;

- 1 (i) An action for the recovery of stolen property, by the owner thereof against any
2 person having the same in his possession;
- 3 (j) An action for the recovery of damages or the value of stolen property, against
4 the thief or any accessory;
- 5 (k) An action arising out of a detention facility disciplinary proceeding, whether
6 based upon state or federal law;
- 7 (l) An action for damages arising out of a deficiency, defect, omission, error, or
8 miscalculation in any survey or plat, whether brought in tort or contract,
9 against a licensed professional land surveyor holding a license under KRS
10 Chapter 322; and
- 11 (m) An action for violating KRS 311.782.
- 12 (2) In respect to the action referred to in paragraph (e) of subsection (1) of this section,
13 the cause of action shall be deemed to accrue at the time the injury is first
14 discovered or in the exercise of reasonable care should have been discovered;
15 provided that such action shall be commenced within five (5) years from the date on
16 which the alleged negligent act or omission is said to have occurred.
- 17 (3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this
18 section, the cause of action shall be deemed to accrue within one (1) year from the
19 date of the occurrence or from the date when the cause of action was, or reasonably
20 should have been, discovered by the party injured.
- 21 (4) In respect to the action referred to in paragraph (h) of subsection (1) of this section,
22 the cause of action shall be deemed to accrue at the time of payment. This limitation
23 shall apply to all payments made on all demands, whether evidenced by writing or
24 existing only in parol.
- 25 (5) In respect to the action referred to in paragraph (i) of subsection (1) of this section,
26 the cause of action shall be deemed to accrue at the time the property is found by its
27 owner.

1 (6) In respect to the action referred to in paragraph (j) of subsection (1) of this section,
2 the cause of action shall be deemed to accrue at the time of discovery of the
3 liability.

4 (7) In respect to the action referred to in paragraph (k) of subsection (1) of this section,
5 the cause of action shall be deemed to accrue on the date an appeal of the
6 disciplinary proceeding is decided by the institutional warden.

7 (8) In respect to the action referred to in subsection (1)(m) of this section, the cause of
8 action shall be deemed to accrue after the performance or inducement or attempt to
9 perform or induce the abortion.

10 ➔Section 11. The following KRS section is repealed:

11 324A.060 Goods and services -- Administrative coordinator.

12 ➔Section 12. Sections 1, 2, and 4 of this Act shall be effective January 1, 2020.