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

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

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

(1) All actively licensed agents except those licensees exempt under KRS 324.046(5) and those licensees satisfying the educational requirement in subsection (2) of this section, shall successfully complete nine (9) classroom or online hours of continuing education each year.

(b) A licensee may accumulate continuing education hours for the biennial period in the first year of the biennial term;

(c) Three (3) of the nine (9) hours shall be in real estate law; and

(d) Six (6) of the nine (9) hours may be in real estate for individuals licensed under KRS Chapter 324A, KRS Chapter 330, and KRS 198B.700 to 198B.738.

(2) A licensee who is issued an initial sales associate license after January 1, 2016, 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; and

(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 2. KRS 324.090 is amended to read as follows:

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

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

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

Section 3. KRS 324.287 is amended to read as follows:

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

(1) Examination fee, not to exceed one hundred dollars ($100).

(2) Broker's and sales associate's original biennial license fee, not to exceed sixty dollars ($60).

(3) Broker's and sales associate's biennial renewal fee, not to exceed sixty dollars.
(4) **(a)** Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

**(b)** If the transfer is initiated by the principal broker for twenty (20) or more licensees, the transfer fee shall not exceed two hundred dollars ($200).

(5) **Reactivation fee, not to exceed ten dollars ($10)**. Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(6)(7) **Biennial recovery fund fee**, not to exceed thirty dollars ($30).

(7)(8) **Prelicensing education course review fee, not to exceed two hundred dollars ($200)**.

(8) **Continuing and postlicensing education course review fee, not to exceed fifty dollars ($50)**.

(9) **Distance education course review fee, not to exceed seventy-five dollars ($75)**. Broker's and associate's applicant license criminal record check fee, not to exceed thirty dollars ($30).

Section 4. KRS 324.310 is amended to read as follows:

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

(2) A licensee may place his or her license in inactive status with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of inactive status of the license; and

(b) The licensee pays the biennial license renewal fees for each renewal period the license is in inactive status.

(3) At the request of the licensee, upon the meeting of requirements applicable to active licensees, including:

(a) The submission of an acceptable criminal record check consistent with KRS 324.045(4); and

(b) Completion of all continuing education requirements; and

(c) Upon payment of the established reactivation fee, the commission shall reactivate a license placed in inactive status, in the absence of any reason or condition which might warrant the refusal of the granting of a license. This section shall be automatically converted to an active license upon payment of the established change fee.

Section 5. KRS 324.330 is amended to read as follows:

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

(2) The commission shall be notified in writing of a change of a residence address within ten days.
[A fee shall be assessed for certification of a licensee’s status with the commission.

(4) The commission shall, by the promulgation of administrative regulations, require all licensees to file with the commission, at biennial[annual] renewal, their telephone numbers and, if applicable, their electronic mail addresses.

Section 6. KRS 324.395 is amended to read as follows:

(1) All real estate licensees, except those whose licenses are in inactive status[escrow] in accordance with KRS 324.310(2), shall carry errors and omissions insurance, which shall include extended reporting period coverage, to cover all activities contemplated under this chapter.

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission shall be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining the required[errors and omissions] insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the biennial[annual] policy at least thirty (30) days prior to the biennial[annual] license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the biennial[annual] license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.
If the commission is unable to obtain the insurance coverage required by subsection (1) of this section to insure all licensees who choose to participate in the group insurance program at a reasonable annual premium, not to exceed two hundred dollars ($200) per year for required insurance coverage and not to exceed two hundred dollars ($200) per year for extended reporting period coverage, the insurance requirement mandated by this section shall be void during the applicable contract year.

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

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

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

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

Section 8. KRS 324.420 is amended to read as follows:

(1) An aggrieved party may commence an administrative action which may result in
collection from the recovery fund by first filing a complaint with the commission on
a form prepared by the commission. The complaint shall constitute a prima facie
case that a licensee is in violation of KRS 324.160 and is subject to the same
conditions set forth in KRS 324.150. If the complaint constitutes a prima facie case
and the matter is not settled, the commission shall hold a hearing pursuant to the
requirements set forth in the provisions of this chapter and KRS Chapter 13B to
determine if a violation of this chapter has in fact occurred. If a violation of fraud is
so found, the commission shall determine if the violation resulted in damages to
complainant and in what amount. If damages cannot be accurately determined, then
the amount of damages shall be determined by a Circuit Court in the county where
the violation took place. In the event the question of damages is referred to the
Circuit Court, the decision of the commission will not be final and appealable until
the question of damages is certifiable.

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

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

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

(5) Upon the final order of the court, and after the commission has paid from the real
estate education, research, and recovery fund any sum to the aggrieved party, the
commission shall be subrogated to all of the rights of the aggrieved party to the
extent of the payment. The aggrieved party shall to the extent of the payment assign
his right, title and interest in the judgment to the commission. After such
assignment, the commission may challenge in bankruptcy court any attempt by a
former licensee to discharge the debt, if proper notice is given. Any funds recovered
by the commission shall be deposited in the real estate education, research, and
recovery fund.

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

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

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

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

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

(9) If at any time the money on deposit in the real estate education, research and
recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof,
the commission shall, when sufficient money has been deposited in the real estate
education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

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

Section 9. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one (1) year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice, or servant;

(b) An action for injuries to persons, cattle, or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216;

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage;

(d) An action for libel or slander;

(e) An action against a physician, surgeon, dentist, or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice;

(f) A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A or a real estate broker or sales associate holding a license issued under KRS Chapter 324;

(g) An action for the escape of a prisoner, arrested or imprisoned on civil process;

(h) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either;
(i) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession;

(j) An action for the recovery of damages or the value of stolen property, against the thief or any accessory;

(k) An action arising out of a detention facility disciplinary proceeding, whether based upon state or federal law;

(l) An action for damages arising out of a deficiency, defect, omission, error, or miscalculation in any survey or plat, whether brought in tort or contract, against a licensed professional land surveyor holding a license under KRS Chapter 322; and

(m) An action for violating KRS 311.782.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.

(3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.

(4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.
(6) In respect to the action referred to in paragraph (j) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

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

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

Section 10. KRS 198B.724 is amended to read as follows:

The board shall promulgate administrative regulations concerning the continuing education required for the renewal of a home inspector license and shall:

(1) Establish procedures for approving organizations that provide continuing education; and

(2) Prescribe the content, duration, and organization of continuing education courses that contribute to the competence of home inspectors.

(3) The board may allow up to six (6) continuing education hours to be in real estate as authorized in Section 1 of this Act.

Section 11. KRS 324A.045 is amended to read as follows:

(1) The board shall issue to each qualified applicant a certificate or license in form and size as shall be prescribed by the board.

(2) (a) Every certificate and license shall be subject to annual renewal on the date or dates determined by the board by administrative regulation.

(b) 1. Each certificate and license holder shall submit proof of compliance with the continuing education requirements when appropriate and the annual renewal fee to the board on or before the last day of the designated month.
2. The board may allow up to six (6) continuing education hours to be in real estate as authorized by Section 1 of this Act.

(c) Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time.

(3) If the certificate or license holder fails to renew in a timely manner, the certificate or license shall expire. Within six (6) months after the renewal date, the former certificate or license holder shall be reinstated by complying with all appropriate renewal requirements and paying a late fee not to exceed two hundred dollars ($200).

(4) If six (6) months or more elapse after the renewal date, the former certificate or license holder shall be required to meet all current requirements as if applying for initial certification or licensure.

Section 12. KRS 330.070 is amended to read as follows:

(1) An apprentice auctioneer applying for an auctioneer license shall, subject to the provisions of KRS 330.060:

(a) Possess a current Kentucky apprentice auctioneer license;

(b) Serve an apprenticeship for a period of one (1) year as an apprentice auctioneer in Kentucky;

(c) Submit a statement to the board, signed by the principal auctioneer, verifying that the applicant has actively and materially participated in at least ten (10) auctions prior to application; and

(d) Successfully complete at least eighty (80) hours of approved classroom instruction from a board-approved auction education provider. The board may waive the eighty (80) hours of approved classroom instruction requirement if the applicant demonstrates sufficient previous auction experience and competency by affidavit or other evidence as required by the board.

(2) An apprentice auctioneer with an original license issued prior to June 30, 2010, or
after July 1, 2015, shall be required to successfully complete the auctioneer examination.

(3) If an applicant for an auctioneer license resides in a state which does not have a current reciprocity agreement with the board, the board may waive the eighty (80) hour education requirement or the apprenticeship requirement, or both, if the applicant demonstrates sufficient previous auction experience and competency by affidavit or by other evidence as required by the board.

(4) An applicant for an auctioneer license who has previously held an auctioneer license which has been revoked, suspended, or which has expired without renewal may request, and the board may grant, a waiver of the requirement of possession of a current apprentice license.

(5) Every application for a license issued by the board shall be submitted on forms prepared by the board. Each applicant shall furnish pertinent background data as outlined on those forms.

(6) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish an initial license fee and annual renewal license fee, neither of which shall exceed one hundred fifty dollars ($150).

(a) All licenses shall expire on the thirtieth day of June.

(b) Each license shall be renewed on or before the expiration date.

(c) In addition to the renewal fee, a late fee shall be established by administrative regulations promulgated by the board on each license renewed within six (6) months after the expiration date.

(d) In the absence of any reason or condition which might warrant the refusal of renewing a license, and upon timely receipt of the renewal form and the annual fee, the board shall issue a license for the ensuing year.

(7) (a) The board may require as a condition precedent to the renewal of any license, that each licensee complete continuing education up to ten (10) hours per
license year and allow up to six (6) hours of continuing education to be in
real estate as authorized by Section 1 of this Act. The board may impose
different continuing education requirements upon different classifications of
licenses under this chapter. The continuing education requirements in this
subsection shall not apply to those auctioneers licensed prior to January 1,
1980.

(b) A licensee who has not completed the required continuing education may,
within the time period set forth in subsection (6) of this section, remit a fee
established by administrative regulations promulgated by the board with the
applicable renewal fees, and the continuing education reporting requirement
shall be deferred to the next annual renewal. If the licensee fails to meet the
continuing education requirement for the next annual renewal, the licensee
shall successfully complete the examination before renewal of his or her
license.

(c) 1. The board may require all licensees to complete a six (6) hour board-
approved core course once every four (4) years, that includes the core
subjects of Kentucky auction statutes and regulations, ethics, and any
other subject matter deemed appropriate by the board.

2. Effective July 1, 2016, each licensee with at least twenty-five (25) years
of continuous licensure shall be exempt from the requirements of this
paragraph.

(8) The board shall prepare and deliver to each licensee a pocket license. The pocket
license of the apprentice auctioneer shall contain the name and address of his or her
principal auctioneer. The board shall also prepare and deliver a license to each
auction house operator.

(a) Auction house operators shall display their licenses conspicuously and at all
times in the auction house identified on the license.
(b) All licensees shall carry their pocket licenses, or a digital facsimile thereof, when performing auctioneering tasks, to be shown upon request.

(c) A license or pocket license shall be replaced upon the request of the licensee and payment of a replacement fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(9) When an apprentice auctioneer is discharged or voluntarily terminates employment with the auctioneer for any reason:

(a) It shall be the immediate duty of the principal auctioneer to deliver to the board a written release of the apprentice auctioneer; and

(b) The apprentice auctioneer shall affiliate with a principal auctioneer within thirty (30) days by submitting to the board an affiliation letter signed by the new principal auctioneer and a fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

An apprentice auctioneer shall not perform any of the acts regulated by this chapter until receiving a new license bearing a new principal auctioneer's name and address.

(10) (a) A licensee may place his or her license in escrow with the board if the licensee does not engage in any board-regulated auctioneering activity and continues to pay the annual renewal license fee.

(b) For each year the license is in escrow, a licensee shall be exempt from the contribution to the auctioneer's education, research, and recovery fund and the continuing education requirement.

(c) To reactivate a license in escrow, the licensee shall complete the core course and pay a reactivation fee and the annual renewal recovery fee, both of which shall be established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(11) Notice in writing shall be given to the board by each licensee of any change of principal business location or residence address within ten (10) days of the change,
and the board shall issue an updated license for the unexpired period. The board may fine, suspend, or revoke the license of a licensee who does not notify the board of a change of address within ten (10) days. Changing a business or a residence address on its records shall entitle the board to collect a fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

Section 13. The following KRS section is repealed:

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

Section 14. Sections 1 and 2 of this Act shall be effective January 1, 2020.