

Must Know - Kentucky Real Estate Law Review

This material may be used only by the person who paid for it.

IF a seller found a way to sell two houses
and you only were paid one commission, you would be upset.
Please honor copyright laws.

Topics	Page
Board of Real Estate Professionals	1-3
About Your License	3 - 5
Brokerage	7 - 9
Commercial Real Estate	8
Complaints – Hearings	8-9
Continuing Education	9 - 10
Disclosure	10 -11
Errors & Omissions Insurance	11
Escrow Accounts	12
Advertising	12 - 13
Listings and Sales Contracts	14 - 15
Personal Assistant	15-16
Grounds for Disciplinary Actions	16-21
Property Management	21 -23
Recovery Fund	23
Broker Management Course	24
Zero Call List	25

Board of Real Estate Professionals

1. Definition KRS 010(2)

“Commission” means the Board of Real Estate Professionals.

Web Address: <http://www.krec.ky.gov>

Physical Address: 656 Chamberlin Avenue, Suite B, Frankfort, KY 40601

Phone: 502-564-7760.

2. KRS 324 means **Kentucky Revised Statutes** passed by state legislatures.

201 KAR means the **Kentucky Administrative Regulations** which is the Board’s interpretation of the laws.

3. Appointment of Commissioners

The Kentucky Association of REALTORS® shall supply a list of three names (broker or sales associate) to the Governor and the Governor selects from the list.

Vacancies arising mid-year may be filled by the Governor from those remaining on the list or a new list.

4. Duties and Powers of the KREC

Hold disciplinary hearings - Conduct licensing examinations

Conduct continuing education classes - Develop a process to approve CE courses

Investigate violations of license law - Require continuing education of licensees

Set, charge and collect fees

Publish and maintain a registry of licensees (KRECs database http://oop.ky.gov/lic_search.aspx)

The KREC may NOT violate antitrust law by setting commission rates, fees or prices a real estate licensee charges.

The KREC **may NOT create regulations** but can **make recommendations** to the Kentucky Real Estate Authority. The new Boards shall be able to make licensing decisions and determine penalties to licensees of their respective Boards **conditional upon ratification** by the Executor Director of the Kentucky Real Estate Authority, with each decision appealable to the Department of Professional Licensing.

8. Office and Employees

The Commission may employ those necessary to carry out the duties of the Commission and obtain office space, supplies and equipment necessary.

9. Commission Records

Records of the Commission are open to the public through a Public Records Request.

10. Sanctions and Penalties

Levy fines not to exceed \$1,000

Issue formal reprimands (public reprimands are found in the newsletter)

Issue informal reprimands (in the file of the licensee, but not public)

Revoke a license

5 years will be the first time a person can ask to secure another real estate license

There is no guarantee that a person can secure another license after it has been revoked.

Suspension of a license

There is no time limit on a suspension

An agent cannot be active in the business while the license is suspended.

Send licensees back to school

Place a licensee on probation for up to 12 months

Licensure Requirements

1. Unlawful Brokerage

It is unlawful to practice real estate without a license.

It is unlawful to pay anyone who does not have a license a referral fee or compensate them in any way.

This includes giving them a gift card.

Unlicensed brokerage activity is a Class A **misdemeanor** for the **first offense** and a **Class D felony** for any subsequent offenses.

A **circuit court** may impose an **additional penalty** on any person who violates any provision of this chapter by **fining them not less than one hundred dollars (\$100) nor more than one thousand (\$1,000)** or **imprisoning them for a term not to exceed six (6) months, or both.**

The Board of Real Estate Professionals **may seek and obtain injunctive relief** against any **unlicensed 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.

2. Builder-Developer Who Has a Licensee

A licensee who is an owner or builder developer must comply with all the law

3. Exceptions to Licensure

Owners, lessors, attorneys-in-fact may sell or lease his/her own property without a license

Attorney-at-law who is practicing law

Receiver, trustee, administrator, executor

Property managers if they are:

1. Employees of the owner
2. Employees of a broker
3. Receive as their primary compensation a residential unit

A real estate license is not required for a person or business who compiles and categorizes rental lists for a fee.

4. Application for Licensure

All license applicants must be 18 years of age and have a high school diploma or its equivalent

Education requirements for **sales license** is 6 academic credit hours from an

accredited real estate school or 96 clock hours from an approved school

Education requirements for **a broker's license** are:

21 credit hours, 12 of the hours must be in real estate classes

3 hours of the real classes must be a Brokerage Management Course

2 years experience averaging 20 hours per week in the real estate business

The above requirements may be reduced to one year if a Bachelor's degree has a major or minor in Real Estate; or the person has an Associate's degree in Real Estate

Applicants must pass the state exam with a minimum score of 75%

All applicants for licensure must state if they have ever had a license revoked or suspended

The license application is provide by the KREC and is given to the applicant at the testing center when

he/she passes the state exam.

Applicants must apply for licensure within **60 days** of passing the state exam.

A criminal background check should be requested **before** sitting for the state exam.

If the criminal background check reveals a felony or a misdemeanor conviction within the previous 5 years, the applicant must submit the background check to the Commission within **5 days** of the receipt of it.

The Commission will investigate, order the applicant to appear before the Commission for a hearing; or after the investigation the Commission may determine that a hearing is not necessary and let the person apply for the license.

If the criminal background check **does not** reveal a felony conviction or a misdemeanor conviction within the previous 5 years, the background check submitted to the Commission **at the time of application**.

5. Other License Information

The KREC will determine the size and form of the license and issue it to the principal broker. The license renewal date will be determined by the KREC. (In the past, this date has been March 31. This may or may be changed on the exam. So, if four dates are given in the answers of a test question that should be one of them.)

The passing of an exam is not required to renew a license that is in good standing with the KREC, a new licensee will be issued upon payment of the annual renewal fees which is done online.

The fine for failure to renew in a timely manner shall not exceed **\$200**.

A license will **automatically** revert to an **expired status** if it is not renewed on time.

An expired license can be reactivated within **one year** if delinquent fees are paid.

Licenses to be on file in office in which the agent is actively engaged.

Status of a Real Estate License

Active – A real estate license is held by a broker and the person is active in the business of real estate.

Inactive – The **revocation or suspension of a principal broker's license shall automatically render inactive** every license granted to any person by virtue of association with the principal broker whose license has been revoked or suspended, **pending a change of principal broker** and the issuance of a new license. Such new license shall be issued **without charge, IF** granted during the **same year** in which the **original license** was granted.

Expired – A real estate license on a date as determined by the KREC. A **fine not to exceed \$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**.