

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

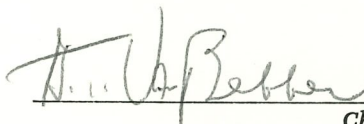
Held in Room 510-S, at the Statehouse at 2:45 ~~am~~ p. m., on January 22, 19 75.

All members were present except: Mr. Anderson who was excused.

The next meeting of the Committee will be held at 2:45 ~~am~~ p. m., on January 23, 19 75.

and Jan. 21

These minutes of the meeting held on Jan. 15, Jan. 20, 19 75 were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Mr. John Ball, Real Estate Commission  
Beulah L. Joy, Real Estate Commission  
Anthony D. Lopez, KCCR  
Roger W. Lovitt, KCCR  
Charles S. Scott, KCCR

The meeting was called to order by the Chairman who introduced new committee member, Rep. John Hayes. He then introduced Mr. John Ball of the Real Estate Commission, to discuss proposed Rules and Regulations.

Mr. Ball explained that 86-1-1 is amended; that this deals with temporary real estate salesman licenses; that anticipated problems did not develop and therefore the proposed regulation at that time is no longer necessary. He stated that the amendment in 86-1-2 is necessary since they have gone to the "multi-state examination system". He stated that 86-1-5 changes the fees on a sliding fee schedule. Mr. Ball pointed out that he considers 86-3-8 the most significant change, and deals with listing contracts, and sets out that they must be in writing. The necessary parts of 86-3-12 are amended into 86-3-13, and states that transactions must be completed within a certain period of time.

Mr. Ball stated that 86-3-16 through 18 are entirely new and came about because in recent years they have gone into as many offices as possible and in making a review have found some deplorable situations in regard to record keeping; that 18 is probably the most important of these in that it makes specific requirements as to record keeping.

Mr. Roger Lovitt, attorney for the Kansas Commission on Civil Rights, was introduced to discuss proposed Rules and Regulations for that agency. He stated that the reason these are so voluminous is that a member of the Attorney General's staff had been assigned to work with them on the Rules, and that for some reason they laid on his desk until past the deadline for submission to the Revisor of Statutes. These have been existing as "emergency regulations".

Mr. Lovitt stated that 21-30-16 deals with preferential employment of friends and relatives of present employees. Mr. Morris stated he felt this is a normal and accepted practice in business and a valuable source for securing new employees. Mr. J. Slattery inquired if this would have a bearing on letters of recommendation, references, etc., and Mr.

thought not unless there were a greater weight given to the letters of employees.

Mr. Lovitt stated that 21-30-18 deals with affirmative action in correcting imbalances where discrimination has been found.

Mr. Lovitt stated that 21-30-19 deals with recruitment and referral; that 21-32-1 deals with stereotyped ideas about sex and what males or females may or may not be able to do. The Chairman suggested that this particular regulation sounds more like a Supreme Court opinion rather than an administrative agency. Mr. Lovitt stated that it may sound presumptive but that he felt it followed the idea of the most recent legislation.

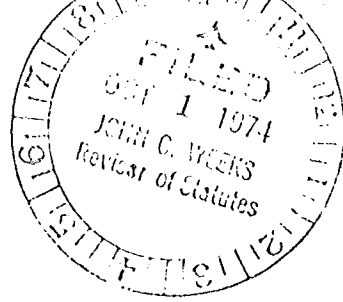
With regard to 21-32-2, it was pointed out this deals with sex discrimination with regard to fringe benefits. Mr. D. Miller inquired about maternity leave and paternity leave and Mr. Lovitt agreed that male employees could be presumed to demand equal rights in this regard.

The Chairman inquired if Mr. Lovitt could return on the 23rd and resume discussion of the proposals, and Mr. Lovitt agreed to do so.

The Chairman asked members to review minutes for January 15, January 20 and January 21, to offer corrections or a motion to accept. Mr. R. Miller stated that he believed on January 21st, Mr. Schnacke had specifically referred to oil field production **tanks**, and that the minutes should reflect this. Thereupon, it was moved by Mr. Ward and seconded by Mr. Sellers that the minutes as corrected, be approved. Motion carried without dissent.

45-24

STATE OF KANSAS  
OFFICE OF  
REVISOR OF STATUTES  
STATE HOUSE, THIRD FLOOR  
TOPEKA, KANSAS 66612  
PHONE 296-2321



KSA

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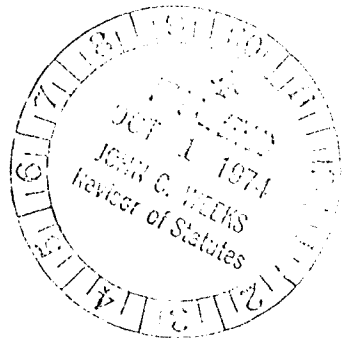
TO: Mr. John Ball, Director  
Kansas Real Estate Commission  
Room 1212, 535 Kansas Ave.  
Topeka, Kansas 66603

JOHN C. WEEKS  
REVISOR OF STATUTES

The following rules and regulations have been received and placed on file in this office.

Date filed	Number	Subject matter
10-1-74	86-1-1 (amended) 86-1-2 (amended) 86-1-5 (amended)	Article 1. Examination and Registration.
	86-3-8 (amended) 86-3-12 (revoked) 86-3-13 (amended) 86-3-16 (new) 86-3-17 (new) 86-3-18 (new)	Listing Contract. Offers. Contracts. Broker's Responsibility for Deposits. Trust Account. Trust Account Records.





RULES AND REGULATIONS  
KANSAS REAL ESTATE COMMISSION

ARTICLE I. EXAMINATION AND REGISTRATION

86-1-1. REFUND OF FEES. Fees submitted with an original or renewal license application are not refundable except as provided in K.S.A. 58-3014

~~(a) application shall be forfeited and shall not be refunded if the applicant fails to submit to examination within three months from the date his application has been approved. The Commission shall notify each applicant of the date of approval of his application.~~

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1975.)

86-1-2. ~~FAILURE TO QUALIFY:~~ EXAMINATIONS. (a) Examinations will be given periodically as provided by K.S.A. 58-3003 (a) on dates established by the Commission.

(b) Applicants shall specify in writing the date on which they wish to write the examination.

(c) Applications must be filed in the Commission Office in proper form by the filing date established by the Commission for each examination.

(d) Any applicant failing to appear for examination at the time scheduled by the Commission, may be required to pay another examination fee before being permitted to write the examination.

(e) Any applicant who fails to qualify for a license may reapply for examination at any time and be re-examined at the discretion of the Kansas Real Estate Commission. A new examination fee shall be paid before a new examination is given. Provided the applicant qualifies within one year of the date of approval of the original application, no new original license fee shall be paid.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1975.)

*amended E-74-50, Sept. 13, 1974;*

86-1-3. EXPIRATION OF LICENSE. All licenses expire as of December 31st of the year of issuance. A licensee who fails to make proper application for renewal before November 30th shall be required to make an original application and take the qualifying examination.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; amended E-73-30, Sept. 28, 1973; amended Jan. 1, 1974.)

86-1-4. RENEWAL OF LICENSES. Renewal licenses shall be issued each year on the forms prepared by the Director and in accordance with the provisions of the Kansas real estate brokers' license law. Application for renewal license shall be received in writing on forms prepared by the Director.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966.)

86-1-5. LICENSE RENEWAL FEES. License renewal fees for calendar year 1974 1975 and subsequent years shall be as follows: broker license renewal fee --\$25.00 \$18.00; salesman license renewal fee --\$10.00 \$12.00.

(Authorized by K.S.A. 58-3014 and 74-4202; effective Jan. 1, 1966; amended, E-73-30, Sept. 28, 1973; amended Jan. 1, 1974; amended May 1, 1975.)

*amended*

*E-74-50,*

*Sept. 13, 1974;*

APPROVED as to form and legality.  
Attorney General  
by *[Signature]*, Ass't.

85-1-6. LICENSE AS SALESMAN AND BROKER. Subject to the approval and investigation by the Commission, an applicant may be licensed as a salesman and as a broker for any current year, provided one of the licenses is on an inactive status. An "inactive" license is defined as a license which has been granted to an applicant but which is held in the office of the Kansas Real Estate Commission.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1974.)

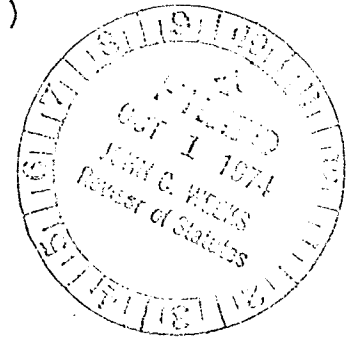
85-1-7. BROKER-SALESMAN STATUS. Unless a member or officer of a partnership, association or corporation licensed as provided in K.S.A. 58-3006, a broker associated with another broker shall be termed a "broker-salesman", and shall conduct himself as a salesman, placing his broker's license in the care, custody and control of the broker with whom he is associated.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1974.)

85-1-8. OPERATING AS INDEPENDENT BROKER. It is not in the public interest for a licensed broker to operate as an independent broker while associated with another broker in the capacity of a "broker-salesman."

It is permissible for a broker licensed as a member or officer of a partnership, association or corporation licensed as provided in K.S.A. 58-3006 to simultaneously operate as an independent broker.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1974.)



APPROVED as to  
form and content  
Attorney General  
by \_\_\_\_\_, Asst.

86-3-7. ADVERTISING. All advertising, except on property personally owned by the licensee or in which he may have an interest, shall be done in the name of the broker by using his trade or business name under which he is licensed and such other information as the broker considers necessary. The use of only a post office box number, telephone number or street address shall be deemed a violation of Section 3315 (a) (9) of the law.

All advertising caused by a licensee, on property personally owned by such licensee, or on property in which he may have an interest, shall be done in such a manner as to clearly inform the public that he is licensed as a real estate broker or salesman.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; amended Jan. 1, 1974.)

86-3-8. LISTING CONTRACT. (a) All listing agreements must be in writing.  
~~All-written-listing~~

(b) Listing agreements must have a fixed date of expiration and must be made in duplicate, one copy to be given to the owner and one copy to be retained by the listing broker.

(c) The broker shall not enter into any written listing agreement containing a provision which automatically extends the term of the listing beyond the expiration date.

(d) No broker may enter into a listing agreement on real property in which the broker's commission is based upon the difference between the gross sales price and the net proceeds to the owner.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; amended Jan. 1, 1972; amended May 1, 1975.)

86-3-9. LEGAL COUNSEL. A broker shall recommend to each purchaser that an attorney be retained by such purchaser to pass upon the marketability of the title of the property and other legal questions involved.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966.)

86-3-10. RETENTION OF RECORDS. Each licensed broker is required to retain in his files for a period of at least five years true copies of all business books, records, contracts, closing statements and correspondence regarding any real estate transaction he has handled. Such records shall be opened to inspection by the Commission and its duly authorized agents at all times during regular business hours at the broker's usual place of business.

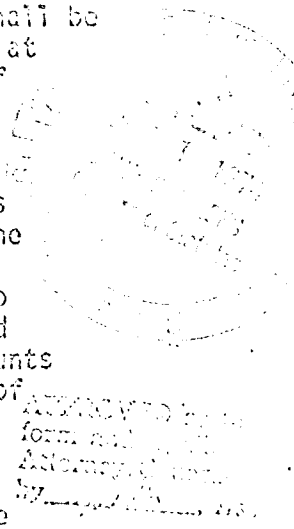
(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966.)

86-3-11. BROKER'S PLACE OF BUSINESS. Usual place of business is defined as the space from which he carries on his business and which he holds forth to the public as his usual place of business. This space may be maintained in the broker's residence, but must be sufficient to maintain the records and accounts required in the above regulation and of sufficient space within which to carry on inspections of said accounts and records as therein provided, without interference by other users of the property.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966.)

86-3-12. OFFERS. ~~It shall be evidence of bad faith, incompetence and improper dealing for a real estate broker to procure a signature to an offer to purchase contract which has no definite purchase price, method of payments, termination date, and description of property. Copies of such agreements shall be promptly placed in the hands of all parties executing the same.~~

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; revoked May 1, 1975.)



86-3-13. CONTRACTS. (a) The real estate broker, for the protection of the public, and of all parties with whom he deals, shall see that financial obligations and commitments regarding real estate are in writing, expressing the exact agreement of the parties, and that copies of such agreements are placed in the hands of all parties involved.

(b) It shall be evidence of bad faith, incompetence and improper dealings for a real estate licensee to procure a signature to a purchase contract which has no definite purchase price, method of payment, description of property, and method of determining the closing date.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1966; amended May 1, 1975.)

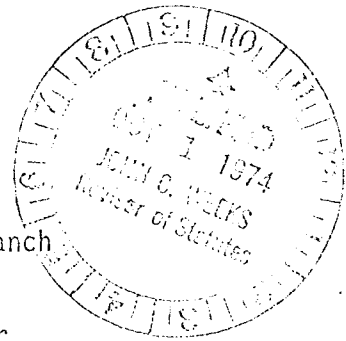
86-3-14. PARTNERSHIPS, ASSOCIATIONS OR CORPORATIONS. On or before January 31, 1974, every resident & non-resident partnership, association or corporation doing business in this state as a real estate broker, and every such partnership, association or corporation formed subsequent thereto, shall submit in writing to the Commission the following:

1. A statement indicating if the firm is organized as a partnership, association or corporation.
2. The name of the partnership, association or corporation.
3. The address of the principle office of the partnership, association or corporation and all branch offices.
4. The name of the broker responsible for supervising each branch office of the partnership, association, or corporation.
5. The name and title or office held by each member or officer of said partnership, association or corporation.
6. A statement showing which of the members or officers of the partnership, association or corporation engage, and do not engage, in the real estate business in this state, and which of the members or officers is licensed as a real estate broker in Kansas.
7. A statement indicating if there has been any change, not previously reported to the Commission, concerning the firm's real estate trust account.
8. The name and business address of the broker designated by the partnership, association or corporation, who will be responsible for corresponding to the Commission on business of the partnership, association or corporation, and to whom the Commission will direct its correspondence.

It is the duty of the broker designated by the partnership, association or corporation to correspond with the Commission to report in writing any change in the information required in this rule and regulation within ten days of said change.

(Authorized by K.S.A. 74-4202; effective Jan. 1, 1974.)

APPROVED as to  
form and legality  
Attorney General  
by J. J. [Signature], Ass't



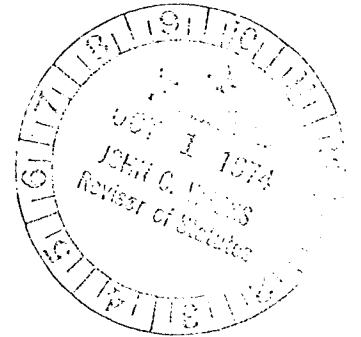
86-3-11c.

BROKER'S RESPONSIBILITY FOR DEPOSITS. (a) No payments shall be made from the broker's trust account other than a withdrawal of earned commissions payable to such broker or withdrawals made on behalf of the beneficiaries of such trust account.

(b) Money held in the trust account which is due and payable to the broker should be withdrawn promptly.

(c) When for any reason the owner fails, refuses, neglects or is unable to consummate the transaction as provided for in the contract, and through no fault or neglect of the purchaser the real estate transaction cannot be completed, the broker has no right to any portion of the deposit money which was deposited by the purchaser, even though the commission is earned, and such deposit should be returned to the purchaser at once and the broker should look to the owner for his compensation.

(Authorized by K.S.A. 74-4202; effective May 1, 1975.)



APPROVED as to  
form and content  
Attorney General  
by *JCM*, Ass't.



86-3-17.

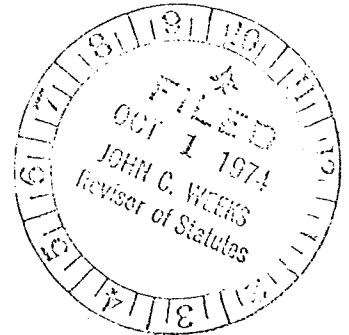
TRUST ACCOUNT. (a) Any trust account maintained by a real estate broker pursuant to K.S.A. 58-5022 (a), shall be identified by the words, "trust account" or "escrow account", and this designation shall be reflected in the bank or savings and loan association records.

(b) A broker may maintain more than one trust account.

(c) All monies received by a broker or his salesman pursuant to a real estate transaction shall be promptly deposited in the real estate broker's trust account. Any earnest money deposit received by the broker or his salesman must be deposited in the broker's trust account not later than 48 hours after the contract has been signed by all parties to the contract, unless all parties to said contract specifically agree in writing to the contrary. In the event the contract is signed by all parties on a day prior to a holiday or other day when said bank or said savings and loan association is closed, said monies shall be deposited on the next business day of said bank or said savings and loan association.

(d) The broker shall not retain any interest accrued on monies held in an interest bearing trust account without the written consent of all parties to the transaction.

(Authorized by K.S.A. 74-4202; effective May 1, 1975.)



APPROVED as to  
form and legality.  
Attorney General  
by \_\_\_\_\_, Ass't.

86-3-18.

TRUST ACCOUNT RECORDS. A broker shall maintain in his office a complete record of all monies received or escrowed on real estate transactions in the following manner: (a) a bank deposit slip showing the date of deposit, amount, source of the money and where deposited.

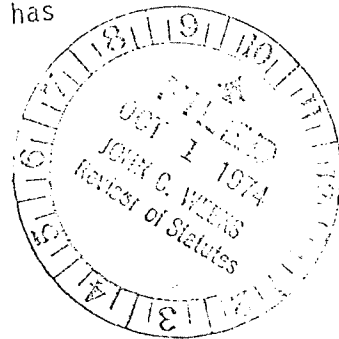
(b) Monthly bank statements are to be retained and kept on file.  
(c) Trust account checks shall be numbered and all voided checks retained. The checks shall denote the broker's business name, address and shall be designated as "trust account" or "escrow account".

(d) A check register which shows the chronological sequence in which funds are received and disbursed: 1. for funds received, the check register must include the date, the name of the party who is giving the money, the name of the principal, and the amount. 2. for disbursement, the check register must include the date, the payee, and the amount. 3. A balance must be shown and balances must be kept current.

(e) A ledger which shows the receipts and disbursements as they affect a single, particular transaction as between buyer and seller, etc. The ledger must include the names of both parties to a transaction, the dates and the amounts received. When disbursing funds, the date, payee, and the amount must be shown. A balance must be shown and balances must be kept current.

(f) The trust account must be reconciled monthly against bank or savings & loan association records except in the case where there has been no activity during the month.

(Authorized by K.S.A. 74-4202; effective May 1, 1975.)



APPROVED as to  
form and legality.  
Attorney General  
by gjm, Ass't.