

CHAPTER 151
SENATE BILL No. 271

AN ACT concerning real estate brokers and sales persons; relating to fees; concerning real estate sales valuation questionnaires; concerning real estate; amending K.S.A. 58-3035 and 58-3063 and K.S.A. 2005 Supp. 79-1437f and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-3035 is hereby amended to read as follows: 58-3035. As used in this act, unless the context otherwise requires:

(a) "Act" means the real estate brokers' and salespersons' license act.

(b) "Advance listing fee" means any fee charged for services related to promoting the sale or lease of real estate and paid in advance of the rendering of such services, including any fees charged for listing, advertising or offering for sale or lease any real estate, but excluding any fees paid solely for advertisement or for listing in a publication issued for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the listing.

(c) "Associate broker" means an individual who has a broker's license and who is employed by another broker or is associated with another broker as an independent contractor and participates in any activity described in subsection (f).

(d) "Branch broker" means an individual who has a broker's license and who has been designated to supervise a branch office and the activities of salespersons and associate brokers assigned to the branch office.

(e) "Branch office" means a place of business other than the principal place of business of a broker.

(f) "Broker" means an individual, other than a salesperson, who advertises or represents that such individual engages in the business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:

(1) Sells, exchanges, purchases or leases real estate.

(2) Offers to sell, exchange, purchase or lease real estate.

(3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.

(4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.

(5) Auctions or offers, attempts or agrees to auction real estate or assists an auctioneer by procuring bids at a real estate auction.

(6) Buys, sells, offers to buy or sell or otherwise deals in options on real estate.

(7) Assists or directs in the procuring of prospects calculated to result in the sale, exchange or lease of real estate.

(8) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.

(9) Engages in the business of charging an advance listing fee.

(10) Provides lists of real estate as being available for sale or lease, other than lists provided for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the list.

(g) "Commission" means the Kansas real estate commission.

(h) "Lease" means rent or lease for nonresidential use.

(i) "Licensee" means any person licensed under this act as a broker or salesperson.

(j) "Office" means a broker's place of business, where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business *primary office*.

(k) "Person" means any individual or any foreign or domestic corporation, partnership or association.

(l) "*Primary office*" means a supervising broker's principal place of business for each company created or established by the broker.

(m) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests, and rights of way and easements acquired for the pur-

pose of constructing roadways, pipelines, conduits, wires and facilities related to these types of improvement projects for private and public utilities, municipalities, federal and state governments, or any political subdivision. For purpose of this act, any rights of redemption are considered to be an interest in real estate.

~~(m)~~ (n) "Salesperson" means an individual, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (f).

~~(n)~~ (o) "Supervising broker" means an individual, other than a branch broker, who has a broker's license and who has been designated as the broker who is responsible for the supervision of the primary office of a broker and the activities of salespersons and associate brokers who are assigned to such office and all of whom are licensed pursuant to subsection (b) of K.S.A. 58-3042 and amendments thereto. "Supervising broker" also means a broker who operates a sole proprietorship and with whom associate brokers or salespersons are affiliated as employees or independent contractors.

Sec. 2. K.S.A. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) For submission of an application for an original salesperson's license, an amount not exceeding \$25.

(3) For submission of an application for an original broker's license, an amount not exceeding \$50.

(4) For an original salesperson's license, a prorated fee based on a two-year amount not exceeding \$100.

(5) For an original broker's license, a prorated fee based on a two-year amount not exceeding \$150.

(6) For renewal of a salesperson's license, a fee based on a two-year amount not exceeding \$100.

(7) For renewal of a broker's license, a fee based on a two-year amount not exceeding \$150.

(8) For reinstatement of a license which has been deactivated or which has been canceled pursuant to subsection (d) of K.S.A. 58-3047 and amendments thereto, or by reason of termination of a salesperson, an amount not exceeding \$15.

(9) For reinstatement of all licenses canceled pursuant to subsection (e) of K.S.A. 58-3047 and amendments thereto, an amount not exceeding \$7.50 for each license canceled.

(10) For issuance of a duplicate license, an amount not exceeding \$10.

(11) For certification of licensure to another jurisdiction, an amount not exceeding \$10.

(12) For approval of a course of instruction submitted by a course provider pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$75.

(13) For renewal of an approved course of instruction pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$15.

(14) For approval of a course of instruction submitted by any licensee for credit toward the 12 hours of additional instruction required by K.S.A. 58-3046a and amendments thereto, an amount not less than \$10 nor more than \$20, as determined by the commission.

(15) For a temporary salesperson's license, an amount not exceeding \$25.

(16) *For each branch office opened or established after July 1, 2006, an amount not exceeding \$100.*

(17) *For each primary office of a company created or established by a supervising broker after July 1, 2006, an amount not exceeding \$100.*

(18) *For certification of a licensee's education history under K.S.A. 58-3046a, and amendments thereto, an amount not exceeding \$25.*

(19) *For certification of licensure of a professional corporation, an amount not exceeding \$25.*

(20) *For each additional primary or branch office at which a salesperson or an associate, supervising or branch broker is associated or employed, if such person is associated or employed by more than one primary or branch office, an amount not exceeding \$50, to be paid by such sales-*

person or broker.

(b) For each prorated fee, the commission shall establish a monthly amount, rounded off to the nearest dollar, and shall compute the fee from the last calendar day of the month in which the license is issued to the expiration date of the license.

(c) Subject to the limitations of this section, the commission shall fix the fees provided for by this section in the amounts necessary to administer and enforce this act.

(d) The fees provided for by this section shall be applicable regardless of the type of license.

Sec. 3. K.S.A. 2005 Supp. 79-1437f is hereby amended to read as follows: 79-1437f. Except as otherwise provided by K.S.A. 79-1460, and amendments thereto, contents of the real estate sales validation questionnaire shall be made available only to the following people for the purposes listed hereafter:

(a) County officials for cooperating with and assisting the director of property valuation in developing the information as provided for in K.S.A. 79-1487, and amendments thereto;

(b) any property owner, or the owner's representative, for prosecuting an appeal of the valuation of such owner's property or for determining whether to make such an appeal, but access shall be limited to the contents of those questionnaires concerning the same constitutionally prescribed subclass of property as that of such owner's property;

(c) the county appraiser and appraisers employed by the county for the appraisal of property located within the county;

(d) appraisers licensed or certified pursuant to K.S.A. 58-4101 et seq., and amendments thereto, for appraisal of property and preparation of appraisal reports;

(e) financial institutions for conducting appraisals and evaluations as required by federal and state regulators;

(f) the county appraiser or the appraiser's designee, hearing officers or panels appointed pursuant to K.S.A. 79-1602 or 79-1611, and amendments thereto, and the state board of tax appeals for conducting valuation appeal proceedings;

(g) the board of county commissioners for conducting any of the board's statutorily prescribed duties; ~~and~~

(h) the director of property valuation for conducting any of the director's statutorily prescribed duties; *and*

(i) *a person licensed pursuant to the real estate brokers' and salespersons' act for purposes of fulfilling their fiduciary duties to clients and providing information on market value of property to clients.*

Sec. 4. K.S.A. 58-3035 and 58-3063 and K.S.A. 2005 Supp. 79-1437f are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 20, 2006.
