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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

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**MEMORANDUM**

To: Chairman Hutton and House Committee on Commerce, Labor and Economic Development  
From: Charles Reimer, Asst. Revisor  
Date: 3/11/2015  
Subject: SB 106

SB 106 amends statutes pertaining to the Kansas Real Estate Commission.

Section 1 addresses professional education for real estate license applications and renewals. References to “additional instruction” are updated to the term “continuing education.” Pages 2-3. A reference to “area vocational or vocational technical school” as a potential provider of courses is updated to “a technical college.” Language is added to provide the commission with authority to approve other providers for continuing education for real estate licenses. Page 3.

Section 2 pertains to the Commission’s authority to refuse to grant or renew licenses or revoke, suspend, condition or restrict licenses, and censure licensees, for commitment of enumerated violations. Language is added to extend the commission’s authority in this regard to applicants as well as licensees. Page 4.

Section 3 pertains to prohibited acts by real estate licensees. This section is amended to add additional prohibited actions for both applicants and licensees, including fraud, forgery, and certain behavior interfering with Commission investigations or hearings and other actions listed. Page 11-13. In addition, an additional prohibited action is added for licensees, threatening a former client or customer. Page 11.

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Section 4 pertains to activities of a real estate broker. The statute is amended to reflect that a broker may represent a seller or landlord in a real estate negotiations and transaction as well as a real estate agent. Page 15.

Section 5 clarifies a drafting error. Page 17, line 41.

If passed the act takes effect on July 1, 2015.

There is a fiscal note.

**SENATE BILL No. 106**

By Committee on Commerce

1-28

1 AN ACT concerning real estate brokers and salespersons; relating to  
2 licensure; technical amendments; amending K.S.A. 58-30,106 and  
3 K.S.A. 2014 Supp. 58-3046a, 58-3050, 58-3062 and 58-30,103 and  
4 repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2014 Supp. 58-3046a is hereby amended to read as  
8 follows: 58-3046a. (a) Except as provided in K.S.A. 58-3040, and  
9 amendments thereto, any person who applies for an original license in this  
10 state as a salesperson shall submit evidence, satisfactory to the  
11 commission, of attendance of a principles of real estate course, of not less  
12 than 30 hours of instruction, approved by the commission and received  
13 within the 12 months immediately preceding the filing of application for  
14 salesperson's license. The commission may require the evidence to be  
15 furnished to the commission with the original application for license or it  
16 may require the applicant to furnish the evidence to the testing service  
17 designated by the commission as a prerequisite to taking the examination  
18 required by K.S.A. 58-3039, and amendments thereto. If the evidence is  
19 furnished to the testing service, the instruction shall have been received  
20 within 12 months immediately preceding the date of the examination.

21 (b) Except as provided in K.S.A. 58-3040, and amendments thereto,  
22 any person who applies for an original license in this state as a broker shall  
23 submit evidence, satisfactory to the commission, of attendance of 24 hours  
24 of instruction, approved by the commission and received within the 12  
25 months immediately preceding the filing of application for broker's  
26 license. Such hours shall be in addition to any hours of instruction used to  
27 meet the requirements of subsection (c), (d), (e) or (f). The commission  
28 may require the evidence to be furnished to the commission with the  
29 original application for license, or it may require the applicant to furnish  
30 the evidence to the testing service designated by the commission as a  
31 prerequisite to taking the examination provided in K.S.A. 58-3039, and  
32 amendments thereto. If the evidence is furnished to the testing service, the  
33 instruction shall have been received within 12 months immediately  
34 preceding the date of the examination.

35 (c) Any person who applies for an original license in this state as a  
36 salesperson on or after July 1, 2007, shall submit evidence, satisfactory to

Proposed Amendments for SB No. 106  
House Committee on Commerce,  
Labor and Economic Development  
Prepared by: Chuck Reimer  
Office of Revisor of Statutes  
March 12, 2015

1 independent inspection of the property for the benefit of the customer and  
2 owes no duty to independently verify the accuracy or completeness of any  
3 statement made by the client or any qualified third party.

4 (3) Except as provided in subsection (d)(4), a seller's or landlord's  
5 agent is not required to disclose to a client or customer information  
6 relating to the physical condition of the property if a written report  
7 regarding the physical condition of the property has been prepared by a  
8 qualified third party and provided to the client or customer.

9 (4) A seller's or landlord's agent shall disclose to the client or  
10 customer any facts actually known by the licensee that were omitted from  
11 or contradict any information included in a written report described in  
12 subsection (d)(3).

13 (5) In performing an investigation or inspection and in making a  
14 disclosure in connection with a real estate transaction, a licensee shall  
15 exercise the degree of care expected to be exercised by a reasonably  
16 prudent person who has the knowledge, skills and training required for  
17 licensure as a broker or salesperson.

18 (e) A seller's or landlord's agent may provide assistance to the  
19 customer by performing ministerial acts. Performing ministerial acts for  
20 the customer shall not be construed as violating the brokerage firm's  
21 agency with the seller or landlord and shall not be construed as forming an  
22 agency with the customer.

23 (f) A seller's or landlord's agent may show alternative properties not  
24 owned by the client to prospective buyers or tenants and may list  
25 competing properties for sale or lease without breaching any duty or  
26 obligation to the client.

27 (g) A seller or landlord may agree in writing with a seller's or  
28 landlord's agent that the broker may offer subagency and pay  
29 compensation to other brokers.

30 (h) A seller or landlord may agree in writing with a seller's or  
31 landlord's agent that the broker may offer to cooperate with a buyer's or  
32 tenant's agent or to cooperate with and pay compensation to a buyer's or  
33 tenant's agent.

34 (i) A seller or landlord may agree in writing with a seller's or  
35 landlord's agent that the broker may offer to cooperate with a transaction  
36 broker or to cooperate with and pay compensation to a transaction broker.

37 (j) If the seller or landlord has authorized the broker to offer  
38 cooperation with other licensees pursuant to subsection (g), (h) or (i) the  
39 broker shall not refuse permission to another licensee to show a listed  
40 property or refuse to receive and transmit to the seller or landlord a written  
41 offer ~~or~~ on a listed property from another licensee specifically instructed  
42 by the seller in writing. The broker shall provide a copy of the written  
43 instructions to another licensee upon request.

unless