

SENATE BILL No. 106

By Committee on Commerce

1-28

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 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

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