

Approved: 4-8-10
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 18, 2010, in Room 144-S of the Capitol.

All members were present except:
Senator Ralph Ostmeier- excused

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Others attending:
See attached list.

Review and Final Action:

SB 578 - Cigarette and tobacco products act; licensing of retail dealers; other amendments

Senator Francisco moved to pass SB 578 out favorably. Senator Reitz seconded the motion. The motion carried.

SB 579 - Regulating traffic, sun screening devices, exemption

Staff provided the requested information on what other states have passed on window tinting. (Attachment 1)

The Committee noted and discussed the different aspects on the medical exemptions in other states' statutes, definitions, windshields and side windows, and that vehicles should be clearly marked.

Staff provided a balloon on the bill. (Attachment 2)

Senator Pyle moved item 4 on the second page of the balloon on the medical exemption. Senator Abrams seconded the motion. Motion for the amendment failed.

The committee discussed the exemption from all windows being tinted.

Senator Abrams made a motion to amend the bill, changing "sun screening" to "sun screen", "police officer motor vehicle" to "law enforcement motor vehicle", add language so the vehicle is clearly identified as a law enforcement vehicle, and change the exemption from subsection "(a) to "(a)(3)" and to pass SB 579 out favorably as amended. Senator Owens seconded the motion. The motion carried.

HB 2560 - Real estate salespersons and brokers, amendments related to technical changes and restricted and conditioned licenses

Senator Owens moved to striking common law language on page 24, starting on line 15. Senator Francisco seconded the motion. The motion carried.

Staff provided a technical amendment on the bill. (Attachment 3)

Senator Reitz moved the technical amendment. Senator Owens seconded the motion. The motion carried

3/18

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on March 18, 2010, in Room 144-S of the Capitol.

Senator Reitz moved to pass **HB 2560** out favorably as amended. Senator Owens seconded the motion. The motion carried.

Senator Abrams moved to ask the Legislative Coordinating Council to refer this topic for an interim study to clarify or modify those relationships and transactions of the Real Estate Brokers' and Salespersons' License Act and the Brokerage Relationships in Real Estate Transactions Act. Senator Owens seconded the motion. The motion carried.

The meeting was adjourned at 11:50 a.m.

*NEBRASKA***60-6,260. Windshield and windows; waiver of standards; conditions.**

The Nebraska State Patrol or local law enforcement agency may grant a waiver of the standards in section 60-6,257 for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician. Such waiver shall be in writing and shall include the date issued, the vehicle identification number, the registration number, or other description to clearly identify the motor vehicle to which the waiver applies, the name of the owner of the vehicle, the reason for granting the waiver, the dates the waiver will be effective, and the signature of the head of the law enforcement agency granting the waiver. Such agency shall keep a copy of the waiver until the waiver expires.

Source: Laws 1989, LB 155, § 5; R.S.Supp.,1992, § 39-6,136.04; Laws 1993, LB 370, § 356.

OKLAHOMA

§47-12-422. Restrictions on use of glass coating materials or sunscreening devices on windshields and windows.

A. As used in this section:

1. "Glass coating material" or "sunscreening devices" means materials, films, applications or devices which are used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of sun, but shall not include materials, films, applications, or devices with a mirrored or mirror-like finish;

2. "Light transmission" means the percentage of total light which is allowed to pass through a window;

3. "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, which is reflected outward by the glass coating material or sunscreening device to the amount of total light falling on the glass coating material;

4. "Manufacturer" means:

- a. a person who engages in the manufacturing or assembling of sunscreening devices, or
- b. a person who fabricates, laminates, or tempers glazing materials, incorporating the capacity to reflect or to reduce the transmittance of light during the manufacturing process; and

5. "Window" means the windshield, side or rear glass of a motor vehicle, including any glazing material, glass coating or sunscreening device.

B. It is unlawful, except as provided by this section, for a person to sell, install, or to operate a motor vehicle with any object or material:

1. Placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows; or

2. So placed, displayed, installed, affixed, or applied in or upon the motor vehicle so as to obstruct or reduce a driver's clear view through the windshield or side or rear windows.

C. It is unlawful for any person to place, install, affix, or apply any transparent material upon the windshield or side or rear windows of any motor vehicle if such material alters the color or reduces the light transmittance of such windshield or side or rear windows except as provided in this section.

D. This section shall not apply to:

1. Side or back windows that have a substance or material in conjunction with glazing material that has a light transmission of at least twenty-five percent (25%)

and a luminous reflectance of at most twenty-five percent (25%);

2. Front side wing vents and windows that have a substance or material not attached in conjunction with glazing material which is used by a vehicle operator on a moving vehicle during daylight hours;

3. Rearview mirrors;

4. Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glass;

5. Signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield nearest the driver;

6. Direction, designation, or termination signs on buses, if the signs do not interfere with the driver's clear view of approaching traffic;

7. Rear window wiper motors;

8. Rear window defrosters or defoggers;

9. Rear truck lid handle or hinges;

10. Side windows to the rear of the driver or back windows that have a substance or material in conjunction with glazing material that has a light transmission of at least ten percent (10%) and a luminous reflectance of at most twenty-five percent (25%) on all vehicles manufactured prior to 1996 year models, if the motor vehicle is equipped with outside mirrors on both left and right hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least two hundred (200) feet to the rear of the motor vehicle;

11. Transparent material which is installed, affixed, or applied to the topmost portion of the windshield if:

a. it does not extend downward beyond the AS-1 line or more than five (5) inches from the top of the windshield, whichever is closer to the top of the windshield, and

b. the material is not red or amber in color;

12. All windows to the rear of the driver's seat in a vehicle licensed as a bus, as defined by Section 1-105 of this title, or a taxicab, as defined by Section 1-174 of this title;

13. Vehicles not subject to registration in the State of Oklahoma;

14. Implements of husbandry as defined by this title;
and

15. Law enforcement vehicles which are owned by the state or a political subdivision of the state.

E. This section shall not prohibit the use and placement of federal, state, or political subdivision certificates on any window as are required by applicable laws.

F. Louvered materials, when installed as designed, shall not reduce the area of the driver's visibility below fifty percent (50%) as measured on a horizontal plane. When such materials are used in conjunction with the rear window, the measurement shall be made based upon the driver's view from inside the rearview mirror.

G. A person who sells or installs any product regulated by this section shall certify in a written statement, which shall be a part of the contract for sale or installation and shall be in bold-face type, that:

1. The product sold or installed is in compliance with the reflectivity and transmittance requirements of this section;

2. The installation of the product to the driver's or passenger's side window may be illegal in some states.

H. The Commissioner of Public Safety, upon application from a person required for medical reasons to be shielded from the direct rays of the sun, supported by written attestation of such fact from a physician licensed pursuant to Section 495 of Title 59 of the Oklahoma Statutes, may issue an exemption from the provisions of this section for a motor vehicle belonging to such person or in which such person is a habitual passenger. Any person may operate a vehicle or alter the color or reduce the light transmitted through the side or rear windows of a vehicle in accordance with an exemption issued by the Commissioner.

I. Any person who violates any provision of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished as provided for in Section 17-101 of this title.

Added by Laws 1991, c. 176, § 1, eff. Sept. 1, 1991.

Amended by Laws 1995, c. 229, § 1, emerg. eff. May 24, 1995; Laws 2002, c. 397, § 24, eff. Nov. 1, 2002; Laws 2005, c. 190, § 11, eff. Sept. 1, 2005.

Comment [1]: BDERIV

Missouri Revised Statutes

Chapter 307 Vehicle Equipment Regulations Section 307.173

August 28, 2009

Specifications for sun screening device applied to windshield or windows--permit required, when--exceptions--rules, procedure--violations, penalty--exemptions.

307.173. 1. Any person may operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent or more plus or minus three percent and a luminous reflectance of thirty-five percent or less plus or minus three percent. Except as provided in subsection 5 of this section, any sun-screening device applied to front sidewing vents or windows located immediately to the left and right of the driver in excess of the requirements of this section shall be prohibited without a permit pursuant to a physician's prescription as described below. A permit to operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun-screening device, in conjunction with safety glazing material, which permits less light transmission and luminous reflectance than allowed under the requirements of this subsection, may be issued by the department of public safety to a person having a serious medical condition which requires the use of a sun-screening device if the permittee's physician prescribes its use. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree by consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child, and grandchild of a person, who resides in the household. Except as provided in subsection 2 of this section, all sun-screening devices applied to the windshield of a motor vehicle are prohibited.

2. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

4. Any person who violates the provisions of this section is guilty of an infraction.

5. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

(L. 1985 H.B. 501 § 1, A.L. 1987 H.B. 78, A.L. 1993 S.B. 52, A.L. 1994 S.B. 475, A.L. 1995 S.B. 3, A.L. 1997 S.B. 121, A.L. 2001 S.B. 244, A.L. 2002 H.B. 1386 & 1038 merged with S.B. 727 & 703, A.L. 2009 H.B. 683)

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Missouri General Assembly

SENATE BILL No. 579

By Committee on Ways and Means

3-16

Senate Committee on Federal and State Affairs

SB 579 Balloon #2 - Medical exemption
Requested by: Kansas Highway Patrol
Prepared by: J. Long

Sn Fed & State
Attachment 2

3-18-10

9 AN ACT regulating traffic; concerning sun screening devices; providing
10 for certain exemptions; amending K.S.A. 8-1749a and ~~repealing the~~ 8-1749b and
11 existing section. sections
12

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

14 Section 1. K.S.A. 8-1749a is hereby amended to read as follows: 8-
15 1749a. (a) No motor vehicle required to be registered in this state and
16 which is operated on the highways of this state shall be equipped with
17 one-way glass or any sun screen device, as defined in K.S.A. 8-1749b, and
18 amendments thereto, ~~and used in conjunction with safety glazing materials~~
19 that do not meet the following requirements:

20 (1) A sun screening device when used in conjunction with the wind-
21 shield shall be nonreflective and shall not be red, yellow or amber in
22 color. A sun screening device shall be used only along the top of the
23 windshield and shall not extend downward beyond the AS1 line which is
24 clearly defined and marked;

25 (2) a sun screening device ~~when used in conjunction with the safety~~ on
26 ~~glazing materials of~~ the side wings or side windows located at the im-
27 mediate right and left of the driver, the side windows behind the driver
28 and the rear most window shall be nonreflective; and

29 (3) the total light transmission shall not be less than 35% ~~when a sun~~
30 ~~screening device is used in conjunction with safety glazing materials or~~
31 ~~other existing sun screening devices.~~

32 ~~(b) Subsection (a) shall not apply to a window of a police officer motor~~
33 ~~vehicle.~~

34 ~~(b) (e) The superintendent of the highway patrol may adopt such~~
35 ~~rules and regulations necessary to carry out the provisions of subsection~~
36 ~~(a) this section.~~ (b)

37 ~~(c) (d) This section shall not prohibit labels, stickers or other infor-~~ (c)
38 ~~mational signs that are required or permitted by state law.~~

39 ~~(d) (e) No motor vehicle required to be registered in this state which~~
40 ~~is operated on the highways of this state shall be equipped with head~~
41 ~~lamps which are covered with any sun screen device, adhesive film or~~
42 ~~other glaze or application which, when such lamps are not in operation,~~
43 ~~is highly reflective or otherwise nontransparent.~~

1 ~~(c) (1) From and after July 1, 1987, and prior to January 1, 1988, a law~~
2 ~~enforcement officer shall issue a warning citation to any person violating~~
3 ~~the provisions of this section.~~

4 ~~(2) From and after January 1, 1988.~~

5 ~~(1)~~ Any person convicted of violating the provisions of this section
6 shall be guilty of a misdemeanor.

7 Sec. 2. K.S.A. 8-1749a is hereby repealed.

8 Sec. 3. This act shall take effect and be in force from and after its
9 publication in the statute book.

(d) The prohibitions of subsection (a)(3) shall not apply:
(1) To any window behind the front two side windows, including
the rear window, of school buses, other buses used for public
transportation, any bus or van owned or leased by a not-for-profit
organization duly incorporated under the laws of this state, any
funeral home services vehicle, any limousine owned or leased by
a private or public entity or any police motor vehicle which is
owned or operated by the state or a political subdivision thereof;
(2) to any window behind the front two side windows, including
the rear window of any pickup truck, van, motor home,
recreational vehicle, sport utility vehicle or multipurpose vehicle
that has been tinted or darkened after factory delivery to the
extent that the light transmittance of the window meets the
minimum light transmittance requirements authorized to be
installed for that window and for that vehicle under federal law or
regulations before factory delivery;
(3) to any other motor vehicle the windows of which have been
tinted or darkened before factory delivery as permitted by federal
law or regulations; or
(4) if a registered owner or occupant of the motor vehicle has a
valid prescription from a licensed medical physician, stating a
serious medical condition exists with medical need for a specific
tint percentage above the standard allowance of 35%. Such
prescription shall be in the possession of the motor vehicle
operator or the vehicle occupant to whom it is prescribed at any
time the motor vehicle is operated on the highways of this state.
It shall be a defense to this violation if a person cited produces
such a prescription to the court.
(e)

below.

INSERT A
and renumber the remaining sections accordingly

and 8-1749b are

Sec. 2. K.S.A. 8-1749b is hereby amended to read as follows: 8-1749b. For the purpose of K.S.A. 8-1749a, and amendments thereto:

(a) "Sun screening devices" means a film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun;

(b) "light transmission" means the ratio of the amount of total light to pass through a product or material including any safety glazing material to the amount of the total light falling on the product or material and the glazing percentage of total light which is allowed to pass through a window;

(c) "luminous reflectants" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or material;

~~(d) "nonreflective" means a product or material designed to absorb light rather than to reflect it;~~

(d) "one-way glass" means glass that prevents or impairs the ability to view the inside of the vehicle from the outside; and

(e) "window" means the windshield, side or rear glass of a motor vehicle, including any glazing material, glass coating or sun screening device.

As Further Amended by House Committee

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2560

By Committee on Commerce and Labor

1-27

12 AN ACT concerning real estate salespersons and brokers; relating to li-
13 censure; technical amendments; amending K.S.A. 58-3037, 58-3038,
14 58-3041, 58-3042, 58-3044, 58-3060, 58-3061, 58-30,101, 58-30,102
15 and 58-30,103 and K.S.A. 2009 Supp. 58-3035, 58-3043, 58-3062, ~~58-~~
16 ~~3063~~ and 58-3068 and repealing the existing sections.

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 2009 Supp. 58-3035 is hereby amended to read as
20 follows: 58-3035. As used in this act, unless the context otherwise
21 requires:

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

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

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

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

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

40 (f) "Broker" means an individual, other than a salesperson, who ad-
41 vertises or represents that such individual engages in the business of buy-
42 ing, selling, exchanging or leasing real estate or who, for compensation,
43 engages in any of the following activities as an employee of, or on behalf

Senate Committee on Federal and State Affairs

HB 2560 Balloon

Prepared by: J. Long

Sn Fed & State
Attachment 3

3-18-10

1 any leasehold or condominium, whether corporeal, incorporeal, freehold
 2 or nonfreehold and whether the real estate is situated in this state or
 3 elsewhere, but does not include oil and gas leases, royalties and other
 4 mineral interests, and rights of way and easements acquired for the pur-
 5 pose of constructing roadways, pipelines, conduits, wires and facilities
 6 related to these types of improvement projects for private and public
 7 utilities, municipalities, federal and state governments, or any political
 8 subdivision. For purpose of this act, any rights of redemption are consid-
 9 ered to be an interest in real estate.

10 ~~(p)~~ (o) "Salesperson" means an individual, other than an associate
 11 broker, who is employed by a broker or is associated with a broker as an
 12 independent contractor and participates in any activity described in sub-
 13 section (f).

14 ~~(q)~~ (p) "Supervising broker" means an individual, other than a branch
 15 broker, who has a broker's license and who has been designated as the
 16 broker who is responsible for the supervision of the primary office of a
 17 broker and the activities of salespersons and associate brokers who are
 18 assigned to such office and all of whom are licensed pursuant to subsec-
 19 tion (b) of K.S.A. 58-3042 and amendments thereto. "Supervising broker"
 20 also means a broker who operates a sole proprietorship and with whom
 21 associate brokers or salespersons are affiliated as employees or independ-
 22 ent contractors.

23 Sec. 2. K.S.A. 58-3037 is hereby amended to read as follows: 58-
 24 3037. The provisions of this act shall not apply to:

25 (a) Any person, other than a person licensed under this act, who di-
 26 rectly performs any of the acts within the scope of this act with reference
 27 to such person's own property.

28 (b) Any person who directly performs any of the acts within the scope
 29 of this act with reference to property that such person is authorized to
 30 transfer in any way by a power of attorney from the owner, provided that
 31 such person receives no commission or other compensation, direct or
 32 indirect, for performing any such act.

33 (c) Services rendered by an attorney licensed to practice in this state
 34 in performing such attorney's professional duties as an attorney.

35 (d) Any person acting as receiver, trustee in bankruptcy, administra-
 36 tor, executor or guardian, or while acting under a court order or under
 37 the authority of a will or a trust instrument or as a witness in any judicial
 38 proceeding or other proceeding conducted by the state or any govern-
 39 mental subdivision or agency.

40 (e) Any officer or employee of the federal or state government, or
 41 any political subdivision or agency thereof, when performing the official
 42 duties of the officer or employee.

43 (f) Any multiple listing service wholly owned by a nonprofit organi-

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- 1 ~~than \$20, as determined by the commission.~~
- 2 ~~—(16) For a temporary salesperson's license, an amount not exceeding~~
- 3 ~~\$25.~~
- 4 ~~—(17) For each branch office opened or established after July 1, 2006,~~
- 5 ~~an amount not exceeding \$100.~~
- 6 ~~—(18) For each primary office of a company created or established by~~
- 7 ~~a supervising broker after July 1, 2006, an amount not exceeding \$100.~~
- 8 ~~—(19) For certification of a licensee's education history under K.S.A.~~
- 9 ~~58-3046a, and amendments thereto, an amount not exceeding \$25.~~
- 10 ~~—(20) For certification of licensure of a professional corporation, an~~
- 11 ~~amount not exceeding \$25.~~
- 12 ~~—(21) For each additional primary or branch office at which a sales-~~
- 13 ~~person or an associate, supervising or branch broker is associated or em-~~
- 14 ~~ployed, if such person is associated or employed by more than one pri-~~
- 15 ~~mary or branch office, an amount not exceeding \$50, to be paid by such~~
- 16 ~~salesperson or broker.~~
- 17 ~~—(b) For each prorated fee, the commission shall establish a monthly~~
- 18 ~~amount, rounded off to the nearest dollar, and shall compute the fee from~~
- 19 ~~the last calendar day of the month in which the license is issued to the~~
- 20 ~~expiration date of the license.~~
- 21 ~~—(c) Subject to the limitations of this section, the commission shall fix~~
- 22 ~~the fees provided for by this section in the amounts necessary to admin-~~
- 23 ~~ister and enforce this act.~~
- 24 ~~—(d) The fees provided for by this section shall be applicable regardless~~
- 25 ~~of the type of license.~~

26 Sec. ~~12~~ **11.** K.S.A. 2009 Supp. 58-3068 is hereby amended to read
 27 as follows: 58-3068. (a) Except as provided in subsection (d), moneys in
 28 the real estate recovery revolving fund shall be used in the manner pro-
 29 vided by this act to reimburse persons who suffer monetary damages by
 30 reason of any of the following acts committed in connection with any
 31 transaction involving the sale of real estate in this state by any broker or
 32 salesperson who was licensed under the laws of this state at the time the
 33 act was committed or by any unlicensed employee of such broker or
 34 salesperson:

- 35 (1) Violation of any of the following provisions of this act:
 - 36 (A) K.S.A. 58-3061¹ and amendments thereto; or
 - 37 (B) subsection (a)(1), (2), (13), (18), (19) or (25) or subsection (b)(2)
 - 38 of K.S.A. 58-3062¹ and amendments thereto; or
- 39 (2) violation of any provision of the brokerage relationships in real
 40 estate transactions act; or
- 41 (3) obtaining money or property by any act which would constitute
 42 any crime defined by K.S.A. 21-3701, 21-3704, 21-3705, 21-3707, 21-
 43 3710, 21-3711 or 21-3712, and amendments thereto.

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1 (b) Any person may seek recovery from the real estate recovery re-
2 volving fund under the following conditions:

3 (1) Such person has received final judgment in a court of competent
4 jurisdiction of this state in any action wherein the cause of action was
5 based on any of the acts described in subsection (a);

6 (2) the claim is made within two years after the date that final judg-
7 ment is entered;

8 (3) such person has caused to be issued a writ of execution upon such
9 judgment, and the officer executing the same has made a return showing
10 that no personal or real property of the judgment debtor liable to be
11 levied upon in satisfaction of the judgment could be found, or that the
12 amount realized on the sale of the judgment debtor's property pursuant
13 to such execution was insufficient to satisfy the judgment;

14 (4) such person has made all reasonable searches and inquiries to
15 ascertain whether the judgment debtor is possessed of real or personal
16 property or other assets, subject to being sold or applied in satisfaction
17 of the judgment, and by such search such person has discovered no such
18 property or assets, or that such person has discovered such property and
19 assets and that such person has taken all necessary action and proceedings
20 for the application thereof to the judgment and that the amount thereby
21 realized was insufficient to satisfy the judgment;

22 (5) any amounts recovered by such person from the judgment debtor,
23 or from any other source, has been applied to the damages awarded by
24 the court; and

25 (6) such person is not a person who is precluded by subsection (c)
26 from making a claim for recovery.

27 (c) A person shall not be qualified to make a claim for recovery from
28 the real estate recovery revolving fund, if:

29 (1) The person is the spouse of the judgment debtor or a personal
30 representative of such spouse;

31 (2) the person acted as principal or agent in the real estate transaction
32 which is the subject of the claim and is a licensed broker or salesperson
33 or is ~~a partnership, association, limited liability company or corporation~~
34 *an association, corporation, limited liability company, limited liability*
35 *partnership, partnership or professional corporation* whose partners,
36 members, officers and employees are licensed as provided by subsection
37 (b) of K.S.A. 58-3042 and amendments thereto; or

38 (3) such person's claim is based upon a real estate transaction in
39 which the licensed broker or salesperson was acting on the broker's or
40 salesperson's own behalf with respect to property owned or controlled by
41 such broker or salesperson.

42 (d) At any time that the balance remaining in the real estate recovery
43 revolving fund is greater than \$250,000, any amount over \$250,000 may

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1 with the ~~corporation, partnership, association or limited liability company~~
 2 ~~association, corporation, limited liability company, limited liability part-~~
 3 ~~nership, partnership or professional corporation,~~ are licensed pursuant to
 4 K.S.A. 58-3042¹ and amendments thereto and which has an agency with
 5 a seller, buyer, landlord or tenant or acts as a transaction broker. The
 6 term "broker" includes the broker's affiliated licensees except where the
 7 context would otherwise indicate. If an individual broker is indicated by
 8 the context, the term "broker" means the supervising broker as defined
 9 by K.S.A. 58-3035¹ and amendments thereto.

10 (e) "Brokerage firm" means the business entity of a broker, whether
 11 ~~a proprietorship, partnership, corporation, association or limited liability~~
 12 ~~company~~ an association, corporation, limited liability company, limited
 13 liability partnership, partnership, proprietorship or professional
 14 corporation.

15 (f) "Buyer's agent" means a broker who has an agency with a buyer.
 16 The term includes the broker's affiliated licensees.

17 (g) "Client" means a seller, landlord, buyer or tenant who has an
 18 agency with a broker.

19 (h) "Commission" means the Kansas real estate commission.

20 (i) "Confidential information" means information made confidential
 21 by statute, rule, regulation or instructions from the client or personal
 22 information about the client which might place the other party at an
 23 advantage over the client unless the information is made public or be-
 24 comes public by the words or conduct of the client to whom the infor-
 25 mation pertains or from a source other than the licensee.

26 (j) "Customer" means a seller, landlord, buyer or tenant in a real
 27 estate transaction in which a broker is involved but who has not entered
 28 into an agency with the broker.

29 (k) "Designated agent" means a licensee affiliated with a broker who
 30 has been designated by the broker, or the broker's duly authorized rep-
 31 resentative, to act as the agent of a broker's buyer or seller client to the
 32 exclusion of all other affiliated licensees.

33 (l) "Exclusive agency agreement" means a written agency agreement
 34 that sets forth the terms and conditions of the relationship between a
 35 broker and the broker's clients and does the following:

36 (1) Grants the broker the exclusive right to represent the seller in the
 37 sale of the seller's property; and

38 (2) provides the broker will be compensated if the broker or any other
 39 person or entity produces a purchaser in accordance with the terms spec-
 40 ified in the agreement or if the property is sold during the term of the
 41 listing agreement, unless the property is sold solely through the efforts of
 42 the seller or to specifically exempted persons or entities.

43 (m) "Exclusive right to sell agreement" means a written agency agree-

1 broker without the express written consent of all parties to the original
2 agreement.

3 (l) A licensee shall not solicit an agency agreement *or written trans-*
4 *action brokerage agreement* from a seller or landlord if the licensee knows
5 that the seller or landlord has, with regard to the property, an agency
6 agreement *or written transaction brokerage agreement* granting an exclu-
7 sive right to sell or exclusive agency to another broker.

8 (m) A licensee shall not solicit an agency agreement *or written trans-*
9 *action brokerage agreement* from a buyer or tenant if the licensee knows
10 that the buyer or tenant has a written agency agreement *or written trans-*
11 *action brokerage agreement* granting an exclusive ~~representation~~ *broker-*
12 *age relationship* to another broker.

13 (n) A licensee shall not induce any party to break any agency agree-
14 ment *or written transaction brokerage agreement*.

15 (o) If a licensee knows that a buyer or tenant has an agency agreement
16 *or written transaction brokerage agreement* granting an exclusive ~~repre-~~
17 ~~sentation~~ *brokerage relationship* to another broker, the licensee shall not
18 contact the buyer or tenant and shall not initiate negotiations for the sale,
19 exchange or lease of real estate with the buyer or tenant. The licensee
20 may negotiate the sale, exchange or lease of real estate directly with the
21 buyer or tenant with the informed consent of the buyer or tenant. The
22 informed consent shall be evidenced by a consent agreement signed by
23 the buyer or tenant prior to any such direct negotiation. The consent
24 agreement shall acknowledge the buyer or tenant agency agreement *or*
25 *written transaction brokerage agreement* and that the buyer or tenant
26 may be liable for compensation under the terms of the agency agreement
27 *or written transaction brokerage agreement*. The commission, by rules
28 and regulations, shall adopt a consent agreement to be used by licensees
29 pursuant to this subsection.

30 (p) A licensee shall not contact the seller or landlord or negotiate a
31 sale, exchange or lease of real estate directly with a seller or landlord if
32 the licensee knows that the seller or landlord has an agency agreement
33 *or written transaction brokerage agreement* granting an exclusive right to
34 ~~sell or exclusive agency to~~ another broker. A buyer's or tenant's agent or
35 a subagent may present an offer to the seller or landlord if the seller's or
36 landlord's agent is present.

exclusive agency agreement or exclusive right to sell agreement
with

37 Sec. ~~16~~ 15. K.S.A. 58-3037, 58-3038, 58-3041, 58-3042, 58-3044,
38 58-3060, 58-3061, 58-30,101, 58-30,102 and 58-30,103 and K.S.A. 2009
39 Supp. 58-3035, 58-3043, 58-3062, ~~58-3063~~ and 58-3068 are hereby
40 repealed.

41 Sec. ~~17~~ 16. This act shall take effect and be in force from and after
42 its publication in the statute book.