

2018 Kansas Statutes

58-3041. Restricted or conditioned license. (a) The commission may issue a restricted or conditioned license to an applicant for an original license or grant an application for renewal of a license, as deemed by the commission to be in the public interest. Restrictions or conditions may be imposed on the issuance of the original license or the renewal of the license, if the applicant:

(1) Has violated the Kansas real estate brokers' and salespersons' license act, K.S.A. 58-3034 et seq., and amendments thereto, the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto, or rules and regulations promulgated thereunder;

(2) has a pending charge, plea of guilty or nolo contendere, or conviction of a felony offense unless the application cannot be considered as pursuant to K.S.A. 58-3043, and amendments thereto;

(3) has a pending charge, plea of guilty or nolo contendere or conviction of a misdemeanor offense which the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant to transact the business of real estate;

(4) has received a diversion or suspended imposition of sentence which the commission determines the underlying facts resulting in the misdemeanor charge being filed reflect on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate;

(5) has a pending case or has received a determination from a military tribunal or administrative proceeding which the commission determines may reflect on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate;

(6) has pending civil litigation, has a judgment or settlement in civil litigation, has tax liens or other liens which the commission determines may reflect on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate;

(7) has a pending or finally adjudicated case involving the denial of a license, suspension, revocation, voluntary surrender or any other disciplinary action taken by another jurisdiction against a real estate salesperson's or broker's license;

(8) has a pending or finally adjudicated case involving the denial of a license, registration or certificate of a suspension, revocation, voluntary surrender or any other disciplinary action taken by the state of Kansas or another jurisdiction against any professional or occupational license, registration or certificate held by the applicant;

(9) has a pending or finally adjudicated case in the state of Kansas or another jurisdiction involving the practice of a profession or occupation without having the required licensure, registration or certification; or

(10) such other matters as the commission deems pertinent pursuant to K.S.A. 58-3043, and amendments thereto.

(b) Except as provided in paragraph [subsection] (c), restrictions or conditions that may be imposed by the commission on the issuance of an original license or the granting of an application for renewal of a license under paragraph [subsection] (a) include restrictions and conditions as:

(1) To employment by or association with as an independent contractor a specific supervising broker or branch broker;

(2) to a specified period of time;

(3) to a particular type of transaction;

(4) to require any specified reports or periodic and final reports regarding the status of any matters in paragraphs (1) through (10) of subsection (a);

(5) to require medical, counseling, psychologist or psychiatric reports as deemed advisable by the commission in the public interest;

(6) to require compliance with and proof of satisfactory completion of the conditions of any probation, diversion, suspended imposition of sentence, post-release supervision or similar sentence;

(7) to require specified education be completed and proof of completion submitted to the commission. The education taken shall not be applied towards the continuing education requirements for renewal of a license;

(8) to file a surety bond in such amount as may be required by the commission for the protection of persons with whom the licensee may do business; or

(9) to require other restrictions or conditions deemed advisable by the commission in the interest of the public.

(c) The commission may issue a restricted or conditioned license to an applicant for an original broker's license and may grant an application for renewal of a broker's license, as deemed by the commission to be in the public interest, if the applicant lacks solely the requisite experience or related education for unrestricted or unconditioned licensure. Restrictions or conditions may be imposed on the license at the discretion of the commission, including restricting or conditioning a license:

(1) To employment by or association with as an independent contractor a specific supervising broker or branch broker;

(2) to a specified period of time;

(3) to a particular type of transaction;

(4) to prohibit employing or associating with any salespersons or associate brokers as a supervising broker or a branch broker;

(5) to require specified education be completed and proof of completion be submitted, and the education taken shall not be applied towards the continuing education requirements for renewal of a license;

(6) to file a surety bond in such amount as may be required by the commission for the protection of persons with whom the licensee may do business; or

(7) by other restrictions or conditions deemed advisable by the commission in the interest of the public.

(d) Unless the commission deems revocation of a license is appropriate pursuant to K.S.A. 58-3050, and amendments thereto, the commission may at any time issue a restricted or conditioned license to a licensee with any conditions or restrictions, as deemed by the commission to be in the public interest, if the licensee:

(1) Has violated the Kansas real estate brokers' and salespersons' license act, K.S.A. 58-3034 et seq., and amendments thereto, the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto, or rules and regulations promulgated thereunder;

(2) has a pending charge, plea of guilty or nolo contendere, or conviction of a felony offense;

(3) has a pending charge, plea of guilty or nolo contendere, or conviction of a misdemeanor offense that the commission determines reflects on the licensee's honesty, trustworthiness, integrity or competence to transact the business of real estate;

(4) has been adjudicated and found to be guilty of violating the federal fair housing act, 42 U.S.C. § 3601 et seq., and amendments thereto, or the Kansas acts against discrimination, K.S.A. 44-1015 through 44-1044, and amendments thereto;

(5) has obtained or reinstated, or attempted to obtain or reinstate, a license by false or fraudulent misrepresentation;

(6) has violated any lawful order or directive of the commission; or

(7) has a pending or finally adjudicated case filed in another jurisdiction involving the condition, probation, suspension or revocation of a real estate salesperson's or broker's license.

(e) Restrictions or conditions that may be imposed against a licensee at any time as provided in paragraph (d), as deemed by the commission to be in the public interest may include the restrictions and conditions as provided in paragraphs (1) through (9) of subsection (b).

(f) Granting or renewing a license, whether the license is restricted, conditioned or not, or taking disciplinary action against a license using restrictions and conditions shall be at the sole discretion of the commission as it deems appropriate to safeguard the public interest. The holder of a restricted or conditioned license shall not be entitled to automatic renewal of a license by complying with K.S.A. 58-3045, and amendments thereto.

(g) Restrictions or conditions shall not be imposed upon a license unless the applicant or licensee is provided notice and an opportunity to be heard in accordance with the Kansas administrative procedure act.

History: L. 1980, ch. 164, § 8; L. 1984, ch. 313, § 84; L. 1995, ch. 149, § 3; L. 2010, ch. 104, § 4; July 1.